



**Building Standards  
and Codes**

## **9A20 Version 6/21/2023**

# **Introduction to Code Enforcement Practices Administration and Enforcement**

# **APPENDIX**

NEW YORK STATE

DEPARTMENT OF STATE

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Executive Law
Chapter Eighteen. Of the Consolidated Laws
Article 18. New York State Uniform Fire Prevention and Building Code Act

**Executive Law § 370**

**§370. Short title**

This article shall be known and may be cited as the “New York State Uniform Fire Prevention and Building Code Act”.

**Executive Law § 371**

**§ 371. Statement of legislative findings and purposes**

1. The legislature hereby finds and declares that:

a. The present level of loss of life, injury to persons, and damage to property as a result of fire demonstrates that the people of the state have yet to receive the basic level of protection to which they are entitled in connection with the construction and maintenance of buildings;

b. There does not exist for all areas of the state a single, adequate, enforceable code establishing minimum standards for fire protection and construction, maintenance and use of materials in buildings. Instead, there exists a multiplicity of codes and requirements for various types of buildings administered at various levels of state and local government. There are, in addition, extensive areas of the state in which no code at all is in effect for the general benefit of the people of the state;

c. The present system of enforcement of fire protection and building construction codes is characterized by a lack of adequately trained personnel, as well as inconsistent qualifications for personnel who administer and enforce those codes;

d. Whether because of the absence of applicable codes, inadequate code provisions or inadequate enforcement of codes, the threat to the public health and safety posed by fire remains a real and present danger for the people of the state; and

e. The multiplicity of fire protection and building construction code requirements poses an additional problem for the people of the state since it increases the cost of doing business in the state by perpetuating multiple requirements, jurisdictional overlaps and business uncertainties, and, in some instances, by artificially inducing high construction costs.

2. The legislature declares that it shall be the public policy of the state of New York to:

a. Immediately provide for a minimum level of protection from the hazards of fire in every part of the state;

b. Provide for the promulgation of a uniform code addressing building construction and fire

prevention in order to provide a basic minimum level of protection to all people of the state from hazards of fire and inadequate building construction. In providing for such a uniform code, it is declared to be the policy of the state of New York to:

- (1) reconcile the myriad existing and potentially conflicting regulations which apply to different types of buildings and occupancies;
  - (2) recognize that fire prevention and fire prevention codes are closely related to the adequacy of building construction codes, that the greatest portion of a building code's requirements are fire safety oriented, and that fire prevention and building construction concerns should be the subject of a single code;
  - (3) place public and private buildings on an equal plane with respect to fire prevention and adequacy of building construction;
  - (4) require new and existing buildings alike to keep pace with advances in technology concerning fire prevention and building construction, including, where appropriate, that provisions apply on a retroactive basis; and
  - (5) provide protection to both residential and non-residential buildings;
- c. Insure that the uniform code be in full force and effect in every area of the state;
  - d. Encourage local governments to exercise their full powers to administer and enforce the uniform code; and
  - e. Provide for a uniform, statewide approach to the training and qualification of personnel engaged in the administration and enforcement of the uniform code.

### **Executive Law § 372**

#### **§ 372. Definitions**

As used in this article, the following terms shall have the meaning ascribed to them, unless the context otherwise requires:

1. **“Administrator”** means the state fire administrator established pursuant to article six-C of this chapter.
2. **“Areas of public assembly”** means all buildings or portions of buildings used for gathering together fifty or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, or similar purposes, the entire fire area of which they are a part, and the means of egress therefrom.
3. **“Building”** means a combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property. The word “building” shall be construed when used herein as though followed by the words “or part or parts thereof” unless the context clearly requires a different meaning. The term “building” shall also mean “factory manufactured home” and “mobile home”. The term “building” shall not include a “ temporary

greenhouse”.

4. “**Construction**” means the construction, reconstruction, alteration, conversion, repair, installation of equipment or use of buildings, and requirements or standards relating to or affecting materials used in connection therewith, including provisions for safety and sanitary conditions.

5. “**Council**” means the state fire prevention and building code council created by this article.

6. “**Department**” means the department of state.

7. “**Equipment**” means plumbing, heating, electrical, ventilating, air conditioning, refrigerating equipment, elevators, dumb waiters, escalators and other mechanical additions or installations.

8. “**Factory manufactured home**” means a structure designed primarily for residential occupancy constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation, on a building site.

9. “**Fire area**” means the floor area of a story of a building within exterior walls, party walls, fire walls, or any combination thereof.

10. “**Fire protection equipment and systems**” means apparatus, assemblies, or systems, either portable or fixed, for use to detect, prevent, control, or extinguish fire.

11. “**Local government**” means a village, town (outside the area of any incorporated village) or city.

12. “**Means of egress**” means a continuous unobstructed way of exit from any point in a building or structure to a public way. A means of egress comprises the vertical and horizontal ways of travel and includes intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts, and yards.

13. “**Mobile home**” means a moveable or portable unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. “Mobile home” shall mean units designed to be used exclusively for residential purposes, excluding travel trailers.

14. “**Office**” means the office of fire prevention and control created pursuant to article six-C of this chapter.

15. “**Secretary**” means the secretary of state.

16. “**State agency**” means any department, bureau, commission, board, public authority or other agency of the state, including any public benefit corporation any member of whose board is appointed by the governor.

17. “**Temporary greenhouse**” means specialized agricultural equipment having a framework

covered with demountable polyurethane materials or materials of polyurethane nature and lacking a permanent and continuous foundation, which is specifically designed, constructed and used for the culture and propagation of horticultural commodities. A “temporary greenhouse” may include, but is not limited to, the use of heating devices, water and electrical utilities, and supporting poles embedded in non-continuous concrete. In no instance will a temporary greenhouse be used for the retail sale of any farm or non-farm products.

18. **“Uniform code”** or “code” means the New York state uniform fire prevention and building code promulgated pursuant to section three hundred seventy-seven of this article.

19. **“Truss type construction”** means a fabricated structure of wood or steel, made up of a series of members connected at their ends to form a series of triangles to span a distance greater than would be possible with any of the individual members on their own.

### **Executive Law § 373**

#### **§ 373. Required immediate applicability of existing state codes**

1. The state building construction code provided for in article eighteen of this chapter, as added by chapter eight hundred of the laws of nineteen hundred fifty-one and the state building conservation and fire prevention code provided for in article eighteen-A of this chapter shall be applicable from and after the first day of March, nineteen hundred eighty-two in every local government that does not on such date have in effect a building or fire protection code. Said state building construction code and state building conservation and fire prevention code shall also be applicable in every local government that on the first day of March, nineteen hundred eighty-two has a building or fire prevention code in effect but which prior to the first day of January, nineteen hundred eighty-four, repeals such code, provided, however, that in the case of any such repeal, the state building construction code and the state building conservation and fire prevention code shall apply within such local government from and after the date of such repeal.

2. The secretary shall, within thirty days after the effective date of this article, notify the elective or appointive chief executive officer or, if there be none, the chairman of the legislative body of each local government and county of the provisions of this section.

3. The secretary shall, within ninety days after the effective date of this article, promulgate regulations establishing minimum standards for administration and enforcement of the state building construction code and the state building conservation and fire prevention code by local governments to which this section applies.

4. Within sixty days after the effective date of the regulations required by subdivision three of this section the elective or appointive chief executive officer of each local government to which this section applies shall report in writing to the executive or appointive chief executive officer or, if there be none, the chairman of the county legislative body of the county in which the local government is situated, the measures it has taken or contemplates taking for administration and enforcement of the state building construction code and the state building conservation and fire prevention code.

5. Within one hundred twenty days after the effective date of the regulations required by subdivision three of this section the elective or appointive chief executive officer or, if there be none, the chairman of the county legislative body shall forward to the secretary the reports of the local governments required by subdivision four of this section together with a report of the

measures such county or local government has taken or contemplates taking for administration and enforcement of the state building construction code and the state building conservation and fire prevention code.

6. On and after the first day of March, nineteen hundred eighty-two, the provisions of subdivisions three, four and five of section three hundred eighty-one of this article shall immediately apply to the administration and enforcement of the state building construction code and the state building conservation and fire prevention code by every local government in which such codes have been made applicable pursuant to this section.

### **Executive Law § 373-a**

#### **§ 373-a. Code comparison study and report**

1. Examination and study of the New York State Uniform Fire Prevention and Building Code.

a. The secretary, through the department of state's code division, shall perform, oversee, and/or commission a study comparing the New York state uniform fire prevention and building code to the national building and fire codes presently in force and promulgated by Building Officials and Code Administrators International, Inc (BOCA).

b. The secretary, through the department of state's code division, shall further perform, oversee and/or commission a study comparing the present New York state energy, plumbing, and mechanical codes to the energy, plumbing and mechanical code presently in force and promulgated by Building Officials and Code Administrators International, Inc (BOCA). The secretary, through the department of state's code division shall also perform, oversee and/or commission a study comparing the present New York state plumbing code to the international plumbing code and the uniform plumbing code.

c. The secretary, through the department of state's code division, shall also perform, oversee and/or commission a study comparing the present provisions of the state, uniform fire prevention and building code relating to fire safety to the provisions of the fire prevention code presently in force and promulgated by the National Fire Protection Association (NFPA1).

2. Report on the examination and study of the New York State Uniform Fire Prevention and Building Code. On or before the fifteenth day of November, nineteen hundred ninety-eight, the secretary, through the department of state's code division, shall issue a report on the examinations and studies prescribed by subdivision one of this section, and shall provide a copy of such report to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on housing, construction and community development, the chair of the assembly standing committee on governmental operations and the chair of the assembly standing committee on housing. Such report shall:

a. Make an express line by line comparison between the provisions of:

- (i) the present New York state uniform fire prevention and building code and national building and fire codes presently in force and promulgated by Building Officials and Code Administrators International, Inc (BOCA);
- (ii) the present New York state energy, plumbing, mechanical codes and the energy, plumbing

- and mechanical code presently in force and promulgated by Building Officials and Code Administrators International, Inc (BOCA);
- (iii) the present New York state plumbing code and the international plumbing code;
  - (iv) the present New York state plumbing code and the uniform plumbing code;
  - (v) the present provisions of the New York state uniform fire prevention and building code relating to fire safety and the provisions of the fire prevention code presently in force and promulgated by the National Fire Protection Association (NFPA1); and
- b. Report on the similarities of, and differences between each such aforementioned code with respect to:
- (i) public safety;
  - (ii) ease of use and clarity of understanding;
  - (iii) effectiveness of enforcement;
  - (iv) ease and effectiveness of administration;
  - (v) user cost savings;
  - (vi) compatibility with other state and international codes; and (vii) potential for promoting economic development.

### **Executive Law § 374**

#### **§ 374. State Fire Prevention and Building Code Council**

1. There is hereby created and established in the department of state a council, to be known as the state fire prevention and building code council. Such council shall consist of the Secretary of State, as chairman, the State Fire Administrator and fifteen other members to be appointed as follows:
- a. Two members, to be appointed by the governor, from among the commissioners of departments of economic development, corrections and community supervision, education, health, labor, mental health and social services, office of general services, division of housing and community renewal, and the superintendent of financial services.
  - b. Six members, to be appointed by the governor, one of whom shall be an elected official of a city with a population over one million, one of whom shall be an elected official of another city with a population over one hundred thousand, one of whom shall be an elected official of any other city, one of whom shall be an elected county official, one of whom shall be an elected town official, and one of whom shall be an elected village official.
  - c. Seven members, to be appointed by the governor with the advice and consent of the senate, one of whom shall be a fire service official, one of whom shall be a registered architect, one of whom shall be a professional engineer, one of whom shall be a code enforcement official, one of whom shall represent builders, one of whom shall represent trade unions, and one of whom shall be a person with a disability as defined in section two hundred ninety-two of this chapter who would directly benefit from the provisions of article thirteen of the state uniform fire prevention and building code. The registered architect and professional engineer shall be duly licensed to practice their respective professions in the state of New York. After the certification of code enforcement personnel pursuant to this chapter shall have begun said code enforcement official shall be so certified.



2. The members of the council, other than the ex-officio members, shall serve for terms of four years provided, however, that any member appointed pursuant to paragraph b of subdivision one of this section shall cease to be a member of the council when such member no longer holds the elective office which made such member eligible to appointment under such paragraph. Such terms shall commence on April first and expire on March thirty-first provided, however, that of the members first appointed pursuant to paragraph b of subdivision one of this section, three shall be appointed for terms of four years and three for a term of two years, of the members first appointed pursuant to paragraph c of subdivision one of this section, three shall be appointed for terms of four years and three for a term of two years, and the member first appointed pursuant to paragraph d of subdivision one of this section shall be appointed for a term of four years. Vacancies shall be filled for unexpired terms in the same manner as the original appointments.

3. The council shall meet at least quarterly at the call of the chairman. Additional meetings may be called upon at least five days notice by the chairman or by petition of five members of the council.

4. No member of the council shall be disqualified from holding any other public office, nor shall employment be forfeited by reason of the member's appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance, county or city charter.

5. Each member of the council, other than a full-time government official, shall receive per diem compensation at the rate of one hundred fifty dollars per day for each day spent in the performance of his duties. All members of the council shall receive actual and necessary expenses incurred in the performance of their duties.

6. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days notice. If any member shall be so removed, the governor shall file in the office of the secretary of state a complete statement of charges made against such member, and his finding thereon, together with a complete record of the proceedings.

7. The ex-officio members of the council and the elected county and local government official members appointed pursuant to paragraph b of subdivision one of this section may, by official authority filed in their respective agencies, county or local governments and with the secretary, designate a deputy or other officer of their respective agency, county or local government to exercise their powers and perform their duties on the council.

8. The council may create such subcommittees as it may from time to time deem appropriate to provide it with advice and recommendations concerning the performance of its duties under this article.

9. a. The chairman of the council shall appoint an advisory board on assistive listening systems in places of public assembly for the purposes of providing the full council with recommendations for standards for such systems. Such advisory board shall consist of the state fire administrator, who shall serve as chairman, and six other members to be appointed as follows:

- (i) three members from among the members of the state fire prevention and building code council,
- (ii) three members one of whom shall represent an organization which serves as an advocate for the hearing impaired, one of whom shall represent consumers of products designed for the hearing impaired, and one of whom represents an institution of higher education

with expertise in the area of assistive listening technology, who shall be entitled to be reimbursed for necessary travel and incidental expenses out of monies appropriated to the division of housing and community renewal.

b. Such advisory board shall, prior to December thirty-first, nineteen hundred eighty-nine, submit to the State Fire Prevention and Building Code Council:

- (i) findings on the extent of existing federal, state and local requirements for assistive listening systems,
- (ii) findings on the type, design and use of existing assistive listening systems,
- (iii) recommendations for design and installation standards for assistive listening systems intended for places of public assembly, and
- (iv) recommendations for capacity standards for places of public assembly which shall be required to install assistive listening systems.

c. In developing such recommendations the advisory board shall take into consideration the costs of such systems, the standardization and compatibility of such systems, if the technology permits, and the utilization of such systems by the hearing impaired consumer. Particular attention should be given to the ability of consumers to utilize a single receiver which is compatible in a variety of installations employing the same assistive listening device technology.

d. In addition, the advisory board shall ensure, to the extent possible, that the standards developed for the design and installation of assistive listening systems take into consideration the opportunity for competition among manufacturers of the same or various approved systems.

### **Executive Law § 375**

#### **§ 375. Powers of the council**

The council is authorized and empowered:

1. To subpoena witnesses, take testimony, compel production of books and records and to hold public hearings. The secretary may designate one or more members of the council, or one or more officers or employees of the department, or the administrator, on request of the secretary, may designate one or more employees of the office, to hold public hearings and report on such hearings to the council.
2. To study the operation of the uniform fire prevention and building code, the state energy conservation construction code established by article eleven of the energy law, local regulations and other laws relating to the construction of buildings and the protection of buildings from fire to ascertain their effects upon the cost of building construction and the effectiveness of their provisions for health, safety and security, particularly as such provisions relate to the protection of life and property from the dangers of fire.
3. To recommend tests and approvals or to require the testing and approval of materials, devices, and methods of construction to ascertain their acceptability under the requirements of the uniform fire prevention and building code.
4. To advise and assist the secretary in carrying out the provisions and purposes of this article and to make recommendations concerning the program and activities of the office and

appointments to be made by the secretary in connection with the uniform fire prevention and building code.

5. To make and establish and, from time to time, alter and amend rules for the organization and internal management of the council, and for such other purposes as may be necessary, desirable or proper in carrying out its powers and duties under this article.

6. To avoid duplication of effort and in the interest of economy, the council may make use of existing studies, surveys, plans, data and other materials in the possession of any state agency. Each such agency is hereby authorized and directed to make the same available to the council and otherwise to assist it in the performance of its functions. The officers and personnel of such agencies may serve at the request of the council upon such advisory committees as the council shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

7. To review and approve standards established by rules and regulations promulgated by the commissioner of health for the implementations of item (ii) of clause (a) of section three hundred twenty-two-C of the general business law.

8. To examine, evaluate, and make recommendations concerning the standardization of the uniform code and local building codes and permit processes for the purpose of facilitating and encouraging the installation and operation of solar and wind energy generating systems throughout the state. For this purpose, the council is authorized to hold public hearings and consult with the solar and wind energy generating industry throughout the state. Any recommendations formulated pursuant to this subdivision shall be submitted to the governor, the secretary of state, the temporary president of the senate and the speaker of the assembly along with such legislative proposals as the council deems necessary to implement its recommendations.

9. To examine, evaluate, and make recommendations concerning the standardization of the uniform code and local building codes and permit processes for the purpose of protection against the effects of sea level rise, flooding, saltwater corrosion, coastal or riparian erosion, storms, and other degradation that may arise out of characteristics of the coastal environment or structures located wholly or partially in a Federal Emergency Management Agency ("FEMA") designated (i) Special Flood Hazard Area according to FEMA's current flood insurance rate maps, or (ii) a Moderate Risk Flood Hazard Area according to FEMA's current flood insurance rate maps. For this purpose, the council is authorized to hold public hearings and consult with relevant stakeholders throughout the state. Any recommendations formulated pursuant to this subdivision shall be submitted to the governor, the secretary of state, the temporary president of the senate and the speaker of the assembly along with such legislative proposals as the council deems necessary to implement its recommendations.

### **Executive Law § 376**

#### **§ 376. Powers of the Secretary**

The secretary is authorized and empowered:

1. To assign to the council such officers and employees of the department as he may deem

necessary from time to time to assist the council in carrying out its functions and duties under this article.

2. To appoint experts, consultants, technical advisers and advisory committees for assistance and recommendations relative to the formulation and adoption of the uniform fire prevention and building code and to assist the council and the secretary in carrying out the purposes of this article.

3. To authorize or provide for the testing and approval of materials, devices and methods of construction.

4. To issue and to publish or cause to be published, including but not limited to publication on the department's website, written interpretations of the uniform code upon written request of a permit applicant or an official responsible for the administration and enforcement of the provisions of such code. Subsequent enforcement of such code shall be consistent with such written interpretations.

5. To do all things necessary or desirable to further and effectuate the general purposes and specific objectives of this article.

6. To issue and to post or cause to be posted a document summarizing the current requirements for swimming pools contained in the uniform code, as such code may from time to time be amended, on the department's website. Such document shall include reference to the fact that local laws regarding fencing and other safety requirements for swimming pools may be more restrictive than requirements for swimming pools contained in the uniform code.

### **Executive Law § 376-a**

#### **§ 376-a. Code enforcement training and certification**

1. For the purpose of this section, the term code enforcement personnel shall mean a code enforcement official certified pursuant to this section charged with enforcement of the uniform fire prevention and building code or the state energy conservation construction code.

2. In addition to the functions, powers and duties otherwise provided by this article, the secretary of state may promulgate rules and regulations with respect to:

- (a) The approval, or revocation thereof, of code enforcement training programs for code enforcement personnel;
- (b) Minimum courses of study, attendance requirements, and equipment and facilities to be required for approved code enforcement training programs for code enforcement personnel;
- (c) Minimum training and examination requirements to qualify for code enforcement officer certification, provided that such training and examination requirements shall not result in code enforcement personnel that have otherwise completed the minimum basic training requirements in order to be eligible for continued employment or permanent appointment as of the effective date of the chapter of the laws of two thousand seventeen that amended this paragraph from being ineligible without further training or examination for certification pursuant to paragraph (d) of this subdivision;

- (d) Issuance of a code enforcement officer certification when an applicant satisfies the requirement set forth in paragraph (c) of this subdivision;
  - (e) Revocation or suspension of the certification of any code enforcement personnel found after a hearing to have materially failed to uphold duties of a code enforcement officer, including but not limited to, making material errors or omissions on an inspection report. The hearing required prior to such revocation or suspension shall provide the code enforcement officer the opportunity to be heard and shall be conducted pursuant to article three of the state administrative procedure act;
  - (f) Minimum qualifications for instructors for approved code enforcement training programs for code enforcement personnel;
  - (g) The requirements of minimum basic training which code enforcement personnel shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment, provided however, that absent a written extension from the secretary of state for good cause shown, the minimum basic training requirements shall be completed within six months from the date of appointment for building safety inspectors and within twelve months from the date of appointment for code enforcement officials, provided further that a building safety inspector must complete at least one-third of required basic training courses prior to performing building safety inspector enforcement activities; and a code enforcement official must complete at least one-sixth of required basic training courses prior to performing building safety inspector enforcement activities and must complete two-thirds of required basic training courses prior to performing code enforcement official enforcement activities;
  - (h) The requirements for in-service training programs designed to assist code enforcement personnel in maintaining skills and being informed of technological advances;
  - (i) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications;
  - (j) Exemptions from particular provisions of this article in the case of any county, city, town, or village if in the opinion of the secretary of state the standards of code enforcement training established and maintained by such county, city, town, or village are equal to or higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in his or her opinion the standards of code enforcement training established and maintained by such county, city, town, or village are lower than those established pursuant to this article;
3. In furtherance of his or her functions, powers and duties as set forth in this section, the secretary of state may:
- (a) Recommend studies, surveys and reports to be made by the department of state regarding the carrying out of the objectives and purposes of this section;
  - (b) Visit and inspect any code enforcement training programs approved by the secretary of state or for which application for such approval has been made; and
  - (c) Recommend standards for promotion to supervisory positions.
4. In addition to the functions, powers and duties otherwise provided by this section, the secretary of state shall:

- (a) Approve code enforcement training programs for code enforcement personnel and issue certificates of approval to such programs, and revoke such approval or certificate;
- (b) Certify, as qualified, instructors for approved code enforcement training programs for code enforcement personnel and issue appropriate certificates to such instructors;
- (c) Certify code enforcement personnel who have satisfactorily completed basic training programs and in-service training programs, and issue appropriate certificates to such code enforcement personnel, and revoke such certificate;
- (d) Investigate and conduct hearings as appropriate relative to complaints made against code enforcement personnel;
- (e) Cause studies and surveys to be made relating to the establishment, operation, effectiveness and approval of code enforcement training programs;
- (f) Cause studies and surveys to be made relating to the completion or partial completion of training programs by video or computer to the maximum extent practicable;
- (g) Consult with and cooperate with the state university of New York and private universities, colleges and institutes in the state for the development of specialized courses of study for code enforcement personnel.

### **Executive Law § 377**

#### **§ 377. New York State Uniform Fire Prevention and Building Code**

1. The council shall formulate a uniform fire prevention and building code which shall take effect on the first day of January, nineteen hundred eighty-four. The council may from time to time amend particular provisions of the uniform code and shall periodically review the entire code to assure that it effectuates the purposes of this article and the specific objectives and standards hereinafter set forth. The secretary shall conduct public hearings on said uniform code and any amendment thereto. The secretary shall review such code or amendment, together with any changes incorporated by the council as a result of such hearings, to insure that it effectuates the purposes of this article. Upon being so satisfied, the secretary shall approve said code or amendment prior to its becoming effective.

2. The Uniform Fire Prevention and Building Code shall:

- a. provide reasonably uniform standards and requirements for construction and construction materials for public and private buildings, including factory manufactured homes, consonant with accepted standards of engineering and fire prevention practices;
- b. formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;
- c. permit to the fullest extent feasible, use of modern technical methods, devices and

improvements which tend to reduce the cost of construction without substantially affecting reasonable requirements for the health, safety and security of the occupants or users of buildings;

d. encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material and techniques; and

e. eliminate restrictive, obsolete, conflicting and unnecessary building regulations and requirements which tend to increase unnecessarily construction costs or retard unnecessarily the use of new materials or provide unwarranted preferential treatment to types or classes of material or products or methods of construction.

### **Executive Law § 378**

## **§ 378. Standards for New York State Uniform Fire Prevention and Building Code**

The uniform code shall address the following subjects:

1. Standards for the construction of all buildings or classes of buildings, or the installation of equipment therein, including standards for materials to be used in connection therewith, and standards for safety and sanitary conditions. Notwithstanding the above, sleeping quarters in a children's overnight camp as defined in [subdivision one of section thirteen hundred ninety-two of the public health law](#) shall be governed by subdivision one of section thirteen hundred ninety-four of such law.
  - 1-a. a. Standards for the construction of all new buildings and for the construction or renovation of existing buildings that undergo a substantial improvement, as defined by the council, located wholly or partially in an area designated on the applicable Federal Emergency Management Agency ("FEMA") flood insurance rate map, as amended from time to time, as a Special Flood Hazard Area or Moderate Risk Flood Hazard Area, for the purposes of safeguarding life and property therein and thereabout from the hazards of sea level rise, flooding, saltwater corrosion, coastal or riparian erosion, storms, and other degradation that may arise out of characteristics of the coastal environment.
  - b. The standards in paragraph a of this subdivision shall (i) be developed to address future physical climate risk due to sea level rise, and/or storm surges and/or flooding, based on available data from nationally recognized sources or data produced by state agencies based on nationally recognized procedures, analysis, and studies predicting the likelihood of extreme weather events, including hazard risk analysis data if applicable, and after consultation with the department of environmental conservation, and (ii) if appropriate, provide for regular inspection, and repair, as necessary, of the interior structural elements of buildings.
2. Standards for the condition, occupancy, maintenance, conservation, rehabilitation and renewal of certain existing buildings, structures and premises and for the safeguarding of life and property therein and thereabout from the hazards of fire, explosion or release of toxic gases arising from the storage, handling or use of combustible or hazardous substances, materials or devices.
3. Standards for passenger elevators to promote uniformity and ease of use for the handicapped

including, but not limited to:

- a. placement and identification of operating controls,
- b. door jamb markings,
- c. operation and leveling features,
- d. operation, width, and safety features for doors,
- e. hall buttons, and
- f. hall lanterns.

4. Standards for areas of public assembly requiring:

- a. approved fire protection equipment and systems shall be installed;
- b. interior finishes shall be of appropriate grade to materially retard the spread of smoke and flame, taking into consideration the fire protection equipment and systems in place, and shall be maintained in that condition;
- c. no combustible material shall be placed in such amounts and locations as would cause existing fire protection equipment and systems to be substantially overburdened, nor shall any material be placed in such manner as would cause safe exit to be significantly impeded; and
- d. incorporation of the retroactivity provisions of article eighteen-AA of this chapter.[1](#)
- e. for buildings included in group C5 of paragraph (f) of section 900.2 of title nine of the official compilation of codes, rules and regulations of the state of New York, that water closets and urinals provided for occupants, based upon capacity, shall be deemed sanitary fixtures and shall be distributed on a basis such that the number of such sanitary fixtures provided in rest facilities for men shall be equal to the number of water closets provided in rest facilities provided for women in buildings with an occupancy of four hundred or less. For buildings consisting of more than four hundred occupants, an additional water closet shall be added to a rest facility provided for women for each sanitary fixture added to a similarly situated rest facility provided for men.
- f. The standards shall include provisions for the type, number, spacing and location of fire protection equipment and systems, the classification and maintenance of interior finishes, and the accumulation of materials.

5. Standards for hotels, motels and lodging houses, requiring that a notice be posted in a prominent place in each guest room, including but not limited to the following information:

- a. location of nearest exits and fire alarms;
- b. procedures to be followed when the fire or smoke detector gives warning; and
- c. procedures to be followed in the event of fire or smoke development.

5-a. Standards for installation of carbon monoxide detectors requiring that every one or two-family dwelling, or any dwelling accommodation located in a building owned as a condominium or cooperative in the state or any multiple dwellings shall have installed an operable carbon monoxide detector of such manufacture, design and installation standards as are established by the council. Carbon monoxide detectors required by this section are required only where the dwelling unit has appliances, devices or systems that may emit carbon monoxide or has an attached garage. For purposes of this subdivision, multiple dwelling means a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied as the temporary or permanent residence or home of three or more families living independently of each other, including but not limited to the following: a tenement, flat house, maisonette apartment, apartment house, apartment hotel, tourist house, bachelor apartment, studio apartment, duplex apartment, kitchenette apartment, hotel, lodging house, rooming house, boarding house, boarding and nursery school, furnished room house, club, sorority house, fraternity



house, college and school dormitory, convalescent, old age or nursing homes or residences. It shall also include a dwelling, two or more stories in height, and with five or more boarders, roomers or lodgers residing with any one family. New construction shall mean a new facility or a separate building added to an existing facility.

5-b. Standards for installation of single station smoke detecting alarm devices requiring that:

- a. every one or two-family dwelling or any dwelling accommodation located in a building
- b. owned as a condominium or cooperative in the state used as a residence shall have installed an operable single station smoke detecting alarm device or devices,
- c. such device or devices shall be installed in an area so that it is clearly audible in each bedroom or other room used for sleeping purposes, with intervening doors closed, in accordance with rules to be promulgated by the council,
- d. such device or devices shall be in compliance with the uniform code, provided, however, that for purposes of this subdivision, battery operated devices shall be permitted,
- e. upon conveyance of any real property containing a one or two-family dwelling or a condominium unit used as a residence and the transferor of the shares allocated to an apartment located in a building owned by a cooperative housing corporation where such apartment is used as a residence, the grantor shall deliver to the grantee at the time of conveyance an affidavit indicating that the grantor is in compliance with this subdivision. The grantee shall have ten days from the date of conveyance within which to notify the grantor if the alarm or alarms are not operable. Upon notification, the transferor shall bear any cost of compliance with the provisions of this subdivision,
- f. notwithstanding any other provision of law, a failure to comply with the provisions of this subdivision shall not be a breach of any warranty in a conveyance of real property, nor shall it be a defense to any claim made under a policy of insurance issued to insure the property against fire or other casualty loss.

5-c. Standards for inspections of solid fuel burning heating appliances, chimneys and flues requiring:

- a. prior to the installation of any solid fuel burning heating appliance, chimney or flue in any dwelling used as a residence, the owner thereof, or his agent, shall first secure a building permit from the appropriate local government official;
- b. an appropriate and qualified inspector, as determined by the local government, shall cause an inspection to be made of the solid fuel burning heating appliance, chimney or flue at a time when such inspection will best determine conformity of such installation with the uniform code, provided, however, that the local government official may waive such inspection for good cause shown;
- c. upon approval of such installation, the appropriate local government official shall issue a certificate evidencing compliance with the appropriate provisions of the uniform code;
- d. no owner of any dwelling used as a residence shall operate, or cause to be operated, any solid fuel burning heating appliance until such installation, including chimney and flue, has been approved and a certificate indicating such approval obtained from the appropriate local government official;
- e. in the event of an accidental fire, requiring the services of a fire department, in a solid fuel burning heating appliance, chimney or flue, the chief of the fire department so responding may issue a temporary thirty day certificate indicating substantial conformity with the uniform code, until such time as an official inspector, as determined by local law, or in the case of a locality that relies on state inspection, a state inspector, shall cause an inspection to be made and a certificate to be issued indicating conformity of such solid fuel burning heating appliance, chimney or flue with the uniform code;

- f. the issuance of such certificate of compliance shall not be deemed to give rise to any claim or cause of action for damages against the local government or local official for damages resulting from operation or use of such solid fuel burning heating appliance, chimney or flue;
- g. the local government in which such property is located may establish and collect a reasonable fee for such inspection from the owner of such property or his agent;
- h. any violation of this subdivision shall be deemed a violation and be punishable by a fine not to exceed two hundred fifty dollars;
- i. notwithstanding the foregoing provisions of this subdivision, in the event of an emergency, where a delay occasioned by the requirement of securing a building permit could reasonably be expected to cause irreparable<sup>2</sup> damage to the property or serious personal injury to the occupants or other person, the owner or his agent may commence such installation without first obtaining such building permit provided application therefore is filed within three business days after such work is commenced.

5-d. Standards for installation of carbon monoxide detecting devices requiring that the owner of every building that contains one or more restaurants and the owner of every commercial building in the state shall have installed in such building and shall maintain operable carbon monoxide detecting device or devices of such manufacture, design and installation standards as are established by the council. Carbon monoxide detecting devices shall only be required if the restaurant or commercial building has appliances, devices or systems that may emit carbon monoxide or has an attached garage.

6. Standards for the use of lead in water supply systems constructed or portions added on or after January first, nineteen hundred eighty-six, including limiting the amount of lead in solder which may be utilized in piping to convey potable water to not more than two-tenths of one percent.

7. Standards for the construction of water supply systems which shall prohibit the use of asbestos cement pipe to convey potable water for any new or modified construction on or after January first, nineteen hundred ninety-two.

8. Standards for hotels, motels and lodging houses requiring (in addition to any other requirement) portable smoke-detecting alarm devices for the deaf and hard of hearing of audible and visual design, available for three percent of all units available for occupancy, with a minimum of one unit. If any other law or regulation requires a central, closed circuit interior alarm system, such device shall be incorporated into or connected to the system so as to be capable of being activated by the system. Incorporation into the existing system shall be in lieu of the portable alarms. Standards shall require operators of any such establishment to post conspicuously at the main desk or other similar station a notice in letters at least three inches in height stating that smoke-detector alarm devices for the deaf and hard of hearing are available. The council shall mandate by rule and regulation, the specific design of the smoke-detector alarm device

9. Standards for buildings (designated as "Group B3-senior citizens" in regulations promulgated pursuant to the New York state uniform fire prevention and building code act) housing senior citizens, intended primarily for persons sixty-two years old or more, who are in good physical condition and do not require physical assistance, requiring that a notice be posted in a prominent place in each residential unit, including but not limited to the following information:

- a. location of nearest exits and fire alarms;
- b. procedures to be followed when the fire or smoke detector gives warning; and
- c. procedures to be followed in the event of fire or smoke development.

10. Standards for assistive listening systems for new construction commenced after January first, nineteen hundred ninety-one requiring the installation of assistive listening systems at all places

of public assembly so designated by the appropriate building and fire code for use by persons who are deaf or hard of hearing who require use of such a system to improve their reception of sound.

a. For purposes of this subdivision, the term (i) “assistive listening system” shall mean situational-personal acoustic communication equipment designed to improve the transmission and auditory reception of sound; and

(ii) “place of public assembly” shall mean a facility which is open to the public as a theater, meeting hall, hearing room, amphitheater, auditorium, or in any other similar capacity.

b. Standards for such systems shall be developed by the state fire prevention and building code council upon receiving recommendations from the advisory board on assistive listening systems in places of public assembly.

c. The appropriate building code or ordinance shall designate such places of public assembly which shall be required to install such assistive listening systems.

11. Standards for buildings shall authorize the installation of potable water heaters for all domestic uses, including space heating.

12. [As added by [L.1995, c. 132](#). See, also, subd. 12 below.] a. Standards for bed and breakfast dwellings shall be promulgated for fire safety. Notwithstanding any other provision of this article, for the purposes of this subdivision a “bed and breakfast dwelling” shall include an owner-occupied residence providing at least three but not more than five rooms for temporary transient lodgers with sleeping accommodations and a meal in the forenoon of the day. Such standards shall distinguish bed and breakfast dwellings from one and two family dwellings, provide specific options for hard-wired single-station smoke detectors and provide a notice to each guest that contains:

(i) the location of nearest exits and fire alarms;

(ii) procedures to be followed when fire or smoke detectors give warning; and

(iii) procedures to be followed in the event of fire or smoke development.

b. Such standards shall also include egress design options to preserve the aesthetic charm and historical significance of such dwellings that shall be limited to one of the following:

(i) an automatic sprinkler head in the stairwell area of any means of egress;

(ii) an external second floor egress; or

(iii) a portable escape device for each guest room.

c. The standards required by this subdivision shall be promulgated and implemented not later than one hundred twenty days after the effective date of this paragraph.

12. [As added by [L.1995, c. 532](#). See, also, subd. 12 above.] Standards for hospice residences, as defined in [section four thousand two of the public health law](#), which shall be deemed to be either a single family dwelling or a two family dwelling for the purposes of local laws and ordinances relating to fire safety and building construction standards.

13. Standards for the abandonment or removal of heating oil storage tanks and related piping in connection with the conversion of liquid fuel burning appliance to alternative fuel requiring:

a. The entire contents of the heating oil storage tank and related piping shall be emptied, cleaned and purged of all vapor. The contents of the storage tank and related piping shall be removed from the premises or property and disposed of in accordance with applicable local, state or federal rules and regulations;

b. If the heating oil storage tank is to be abandoned in place, the vent line shall remain open and intact, unless the tank is filled with an inert material. The oil fill pipe and other related piping

shall either be removed, or the oil fill pipe shall be filled with concrete;

- c. If the heating oil storage tank is to be removed, the vent line, oil fill pipe and related piping shall also be removed, or the oil fill pipe shall be filled with concrete;
- d. An appropriate and qualified inspector, as determined by the local government, shall cause an inspection to be made of the abandonment or removal in connection with the conversion to determine conformity with the uniform code; provide<sup>4</sup>, however, that the local government official may waive such inspection for good cause shown; and
- e. No approval of such abandonment or removal shall be granted unless written proof of the heating oil storage tank's oil fill pipe having been removed or filled with concrete in accordance with appropriate provisions of the uniform code has been provided by the property owner to the local inspector or, in the event that an inspection has been waived for good cause shown to the local government official.
- f. For the purposes of this subdivision, "heating oil storage tank" shall mean a tank used for storing heating oil for consumptive use on the premises where stored.
- g. In cities with a population of over one million, such cities' local code provisions shall be at least as stringent as the provisions of this subdivision.
- h. The property owner shall provide written notice to his or her home heating oil supplier or suppliers to inform them of such conversion to an alternate fuel prior to the commencement of the new home heating service.

14. Provide that any:

- a. gates required to be provided in a swimming pool enclosure shall be self-closing and self-latching with the latch handle located within the enclosure and at least forty inches above grade, and shall be securely locked with a key, combination or other child proof lock sufficient to prevent access to such swimming pool through such gate when such swimming pool is not in use or supervised;
- b. residential or commercial swimming pool constructed or substantially modified after the effective date of this paragraph shall be equipped with an acceptable pool alarm capable of detecting a child entering the water and of giving an audible alarm; and
- c. hot tub or spa with a safety cover which complies with American Society of Testing and Materials International standard F1346 (2003) or any similar standard which may be approved by the council shall be exempt from the provisions of this subdivision and any swimming pool, other than a hot tub or spa, with an automatic power safety cover which complies with American Society of Testing and Materials International standard F1346 (2003) or any similar standard which may be approved by the council shall be exempt from the provisions of paragraph b of this subdivision.
- d. temporary swimming pool enclosure shall be required to be replaced by a permanent enclosure which is in compliance with New York state codes, regulations or local laws within ninety days from the issuance of a local building permit or the commencement of the installation of an in-ground swimming pool, whichever is later. A local building department may issue a waiver to allow an extension of such ninety day time period for good cause including but not limited to adverse weather conditions delaying construction.

15. Standards for temporary swimming pool enclosures used during the installation or construction of swimming pools requiring that any such enclosure shall sufficiently prevent any access to such swimming pool by any person not engaged in the installation or construction of such swimming pool and shall sufficiently provide for the safety of any such person.

16. Standards requiring the installation and maintenance of at least one safe, sanitary, and convenient diaper changing station, deck, table, or similar amenity which shall be available for use by both male and female occupants and which shall comply with section 603.5 (Diaper

Changing Tables) of the two thousand nine edition of the publication entitled ICC A117.1, Accessible and Usable Buildings and Facilities, published by the International Code Council, Inc., on each floor level containing a public toilet room in all newly constructed buildings in the state that have one or more areas classified as assembly group A occupancies or mercantile group M occupancies and in all existing buildings in the state that have one or more areas classified as assembly group A occupancies or mercantile group M occupancies and undergo a substantial renovation. The council shall prescribe the type of renovation to be deemed to be a substantial renovation for the purposes of this subdivision. The council may exempt historic buildings from the requirements of this subdivision.

17. Standards requiring that, in each building that has one or more areas classified as assembly group A occupancies or mercantile group M occupancies and in which at least one diaper changing station, deck, table, or similar amenity is installed, a sign shall be posted in a conspicuous place in each public toilet room indicating the location of the nearest diaper changing station, deck, table, or similar amenity that is available for use by the gender using such public toilet room. The requirements of this subdivision shall apply without regard to whether the diaper changing station, deck, table, or similar amenity was installed voluntarily or pursuant to subdivision sixteen of this section or any other applicable law, statute, rule, or regulation. No such sign shall be required in a public toilet room in which any diaper changing station, deck, table, or similar amenity is located.
18. Standards requiring that grease traps or interceptors located in a place that may be accessible by the public, or located inside any food service establishment, or located in any other building that is open to the public, shall be designed and maintained to withstand expected loads and to prevent unauthorized access. Such standards shall also include requiring the installation of a warning sign or symbol, as determined by the council, on or in the vicinity of such grease traps or interceptors. Such standards shall apply to new and existing grease traps and interceptors. For the purposes of this subdivision, "food service establishment" shall have the same meaning as in part fourteen of title ten of the New York code of rules and regulations.
19. a. Except as otherwise provided by statute, no change to the building code shall become effective until at least ninety days after the date on which notice of such change has been published in the state register, unless the council finds that:
  - (i) an earlier effective date is necessary to protect health, safety and security; or
  - (ii) the change to the code will not impose any additional compliance requirements on any person.b. Notwithstanding the provisions of paragraph a of this subdivision, the council may provide that, in the period during which changes to the code have been adopted but are not yet effective pursuant to paragraph a of this subdivision, a person shall have the option of complying with either the provisions of the code as changed or with the code provisions as they were set forth immediately prior to the change.

### **Executive Law § 379**

#### **§ 379. Incorporation of higher standards by council upon recommendation of local government; local building regulations**

1. Except in the case of factory manufactured homes, intended for use as one or two family dwelling units or multiple dwellings of not more than two stories in height, the legislative body of any local government may duly enact or adopt local laws or ordinances imposing higher or more restrictive

standards for construction within the jurisdiction of such local government than are applicable generally to such local government in the uniform code. Within thirty days of such enactment or adoption, the chief executive officer, or if there be none, the chairman of the legislative body of such local government, shall so notify the council, and shall petition the council for a determination of whether such local laws or ordinances are more stringent than the standards for construction applicable generally to such local government in the uniform code. Such local laws or ordinances shall take full force and effect upon an affirmative determination by council as provided herein.

2. If the council finds that such higher or more restrictive standards are reasonably necessary because of special conditions prevailing within the local government and that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall adopt such standards, in whole or part. The council shall have the power to limit the term or duration of such standards, impose conditions in connection with the adoption thereof, and to terminate such standards at such times, and in such manner as the council may deem necessary, desirable or proper.
3. Nothing in this article shall be construed to prohibit any municipality from adopting or enacting any building regulations relating to any matter as to which the uniform fire prevention and building code does not provide, but no municipality shall have the power to supersede, void, repeal or make more or less restrictive any provisions of this article or of rules or regulations made pursuant hereto.
4. Within one hundred twenty days after the effective date of the uniform code, a local government may by resolution duly enacted petition the council for a determination as to whether an existing building and/or fire code in force in said local government is more stringent than the uniform code. During the period in which the council is considering such petition such local code shall remain in full force and effect. If, after review, the council determines that such local code is less stringent than the uniform code the council shall notify the chief executive officer or, if there be none, the chairman of the legislative body of such local government and the uniform code shall, thirty days after the date of notification, apply in such local government. If the council finds that such local code is not less stringent than the uniform code such local code shall continue in full force and effect until the council, upon its own initiative, reviews such local code and determines that it is no longer more stringent, whereupon the council shall notify the chief executive officer or chairman of the legislative body of such local government and thirty days after the date of notification the uniform code shall apply in such local government.
5. Notwithstanding the provisions of subdivision one of this section, the legislative body of Nassau County may have duly enacted or adopted or may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of the county than are applicable generally to the county in the uniform code. The chief executive officer, or if there be none, the chairman of the legislative body of the county, shall notify the council, and shall petition the council for a determination of whether such preexisting local laws or ordinances, or within thirty days of such enactment or adoption of such local laws or ordinances, are more stringent than the standards for construction applicable generally to such county in the uniform code. During the period in which the council is considering such petition, such local laws or ordinances shall remain in full force and effect.

### **Executive Law § 380**

#### **§ 380. Granting authority**

The secretary shall administer a program of local assistance to aid local governments in the

administration and enforcement of locally adopted or state promulgated building and fire codes. Said program of local assistance shall conform to the requirements of section fifty-four-g of the state finance law. The secretary shall adopt, amend and rescind such rules, regulations and guidelines as may be necessary for the performance of his or her functions, powers and duties under this section.

### **Executive Law § 381**

#### **§ 381. Administration and enforcement of the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation Construction Code**

1. The secretary shall promulgate rules and regulations prescribing minimum standards for administration and enforcement of the uniform fire prevention and building code promulgated in accordance with [sections three hundred seventy-seven](#) and [three hundred seventy-eight](#) of this article and the state energy conservation construction code adopted in accordance with article eleven of the energy law. Such rules and regulations shall become effective not later than the first day of January, nineteen hundred eighty-five. The secretary shall promulgate such regulations after public hearing and after considering reaction to initial administration and enforcement of the uniform building and fire prevention code, including how local governments have organized to provide for such initial administration and enforcement. Such rules and regulations shall address the nature and quality of enforcement and shall include, but not be limited to the following:

- a. frequency of mandatory inspections for compliance with the uniform code and the state energy conservation construction code,
- b. number and qualifications of staff, including requirements that inspectors be certified pursuant to this chapter,
- c. required minimum fees for administration and enforcement,
- d. adequacy of inspections,
- e. adequacy of means for insuring compliance with the uniform code and the state energy conservation construction code, including provisions intended to achieve compliance with the state energy conservation construction code consistent with the compliance goals set forth in section 410(2)(C) of the American Recovery and Reinvestment Act of 2009,
- f. establishment of a procedure whereby any provision or requirement of the uniform code may be varied or modified in cases where strict compliance with such provision or requirement would entail practical difficulties or unnecessary hardship or would otherwise be warranted. Such procedure shall be designed to insure that any such variance or modification shall not substantially affect adversely provisions for health, safety and security, and that equally safe and proper alternatives may be prescribed. Requests for a variance shall be resolved within sixty days of the date of application unless a longer period is required for good cause shown,
- g. procedures for inspection of certain classes of buildings based upon design, construction, ownership, occupancy or use, including, but not limited to, mobile homes, factory manufactured homes and state-owned buildings, minimum basic training and in- service

training requirements for personnel charged with administration and enforcement of the state energy conservation construction code; and

- h. standards and procedures for measuring the rate of compliance with the state energy conservation construction code, and provisions requiring that such rate of compliance be measured on an annual basis.

Nothing in the rules shall require or be construed to require regular, periodic inspections of (A) owner-occupied one and two-family dwellings, or (B) agricultural buildings used directly and solely for agricultural purposes, provided, however that this shall not be a limitation on inspections conducted at the invitation of the owner or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.

2. Except as may be provided in regulations of the secretary pursuant to subdivision one of this section, every local government shall administer and enforce the uniform fire prevention and building code and the state energy conservation construction code on and after the first day of January, nineteen hundred eighty-four, provided, however, that a local government may enact a local law prior to the first day of July in any year providing that it will not enforce such codes on and after the first day of January next succeeding. In such event the county in which said local government is situated shall administer and enforce such codes within such local government from and after the first day of January next succeeding the effective date of such local law, in accordance with the provisions of paragraph b of subdivision five of this section unless the county shall have enacted a local law providing that it will not enforce such codes within that county. In such event the secretary in the place and stead of the local government shall, directly or by contract, administer and enforce the uniform code and the state energy conservation construction code. A local government or a county may repeal a local law which provides that it will not enforce such codes and shall thereafter administer and enforce such codes as provided above. Two or more local governments may provide for joint administration and enforcement of the uniform code, the state energy conservation construction code, or both, by agreement pursuant to article five-G of the general municipal law. Any local government may enter into agreement with the county in which such local government is situated to administer and enforce the uniform code, the state energy conservation construction code, or both, within such local government. Local governments or counties may charge fees to defray the costs of administration and enforcement.
3. On and after the first day of July, nineteen hundred eighty-five, the secretary shall have power to investigate and conduct hearings relative to whether administration and enforcement of the uniform fire prevention and building code complies with the minimum standards promulgated pursuant to subdivision one of this section. At least ten days written notice of any such hearing shall be provided to the elective or appointive chief executive officer or, if there be none, the chairman of the legislative body of the local government or county whose administration and enforcement of the uniform code is at issue.
4. If the secretary determines that a local government has failed to administer and enforce the uniform fire prevention and building code in accordance with the minimum standards promulgated pursuant to subdivision one of this section, the secretary shall take any of the following actions, either individually or in combination in any sequence:
  - a. The secretary may issue an order compelling compliance by such local government with the standards for administration and enforcement of the uniform code.



b. The secretary may ask the attorney general to institute in the name of the secretary an action or proceeding seeking appropriate legal or equitable relief to require such local government to administer and enforce the uniform code.

c. The secretary may designate the county in which such local government is located to administer and enforce the uniform code in such local government. In the case of such designation, the provisions of subdivision five of this section shall apply.

d. The secretary may, in the place and stead of the local government, administer and enforce the uniform code in accordance with the minimum standards promulgated pursuant to subdivision one of this section. In such event, the provisions of subdivision five of this section shall apply.

5. Where the secretary has designated a county to administer and enforce the uniform fire prevention and building code within a local government or has assumed authority for administration and enforcement pursuant to subdivision two or paragraph d of subdivision four of this section:

a. Such local government or county government shall not administer and enforce the uniform code and shall not charge or collect fees for such administration and enforcement.

b. Such county shall administer and enforce the uniform code within such local government from and after the date of such designation. Such administration and enforcement shall apply the minimum standards promulgated by the secretary pursuant to subdivision one of this section. Notwithstanding any other provisions of law, such county shall have full power to administer and enforce the uniform code in accordance with such minimum standards, including the power to charge and collect fees for such administration and enforcement.

c. The secretary shall designate the local government or county government to resume administration and enforcement of the uniform code when the secretary is satisfied that such local government or county will provide such administration and enforcement in compliance with the minimum standards promulgated pursuant to subdivision one of this section.

d. The provisions of subdivisions three and four of this section shall apply to counties which have been designated to administer and enforce the uniform code in such local government.

6. The secretary shall study and from time to time make recommendations to the governor and legislature concerning:

a. Appropriate means to provide encouragement, support and inducements for local governments and counties to exercise their responsibilities pursuant to this section; and

b. Appropriate means to provide encouragement, support and inducements to facilitate compliance with the provisions of the uniform code.

## **Executive Law § 382**

### **§ 382. Remedies**

1. In addition to and not in limitation of any power otherwise granted by law, every local government and its authorized agents shall have the power to order in writing the remedying of any condition found to exist in, on or about any building in violation of the uniform fire prevention and building code and to issue appearance tickets for violations of the uniform code.
2. Any person, having been served, either personally or by registered or certified mail, with an order to remedy any condition found to exist in, on, or about any building in violation of the uniform fire prevention and building code, who shall fail to comply with such order within the time fixed by the regulations promulgated by the secretary pursuant to subdivision one of section three hundred eighty-one of this article, such time period to be stated in the order, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction of any building who shall knowingly violate any of the applicable provisions of the uniform code or any lawful order of a local government, a county or the secretary made thereunder regarding standards for construction, maintenance, or fire protection equipment and systems, shall be punishable by a fine of not more than one thousand dollars per day of violation, or imprisonment not exceeding one year, or both for the first one hundred eighty days, and for the following one hundred eighty days shall be punishable by a fine of no less than twenty-five dollars and not more than one thousand dollars per day of violation or imprisonment not exceeding one year, or both and thereafter shall be punishable by a fine of no less than fifty dollars and not more than one thousand dollars per day of violation or imprisonment not exceeding one year, or both.
3. Where the construction or use of a building is in violation of any provision of the uniform code or any lawful order obtained thereunder, a justice of the supreme court, New York city civil court, a city court, district court or county court, may order the removal of the building or an abatement of the condition in violation of such provisions. An application for such relief may be made by the secretary, an appropriate municipal officer, or any other person aggrieved by the violation.

## **Executive Law § 382-a**

### **§ 382-a. Buildings with truss type construction; notice requirements and enforcement**

1. All commercial and industrial structures that utilize truss type construction shall be marked by a sign or symbol in a manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss construction in the structure.
2. The council shall promulgate rules and regulations it deems necessary to carry into effect the provisions of this section, including, but not limited to:
  - a. The dimensions and color of such sign or symbol;
  - b. The time within which commercial and industrial structures that utilize truss type construction shall be so marked; and

c. The location on each commercial and industrial structure that utilizes truss type construction where such sign or symbol should be posted.

3. The fee for producing the signs or symbols used to mark buildings with truss type construction shall be fifty dollars, which cost shall be borne by the owner of such building.

4. Local governments shall provide by local law for the enforcement of the provisions of this section. Local governments may provide for joint enforcement of the provisions of this section by agreement pursuant to article five-G of the general municipal law.

5. The provisions of this section shall not apply to any city with a population of one million or more persons.

### **Executive Law § 382-b**

#### **§ 382-b. Residential buildings with truss type, pre-engineered wood or timber construction; notice requirements**

1. a. Any person utilizing truss type, pre-engineered wood or timber construction for the erection of any new residential structure, for any addition to an existing residential structure, or for any rehabilitation of an existing residential structure, shall, upon application for a building permit with the local government having jurisdiction, include on the permit application that truss type, pre-engineered wood or timber construction is being utilized.

b. The property owner or the property owner's representative shall complete a form prescribed by the council designating the structure as truss type, pre-engineered wood or timber construction and file such form with the application for a building permit.

c. Upon receiving the application for a building permit and a form designating the structure as truss type, pre-engineered wood or timber construction, the local government having jurisdiction shall notify by certified mail, facsimile, e-mail or other electronic means, the chief of the fire district, fire department or fire company having jurisdiction over the structure to be erected, added to, or modified, or his or her designee, that truss type, pre-engineered wood or timber construction is being utilized.

d. As a condition of the final receipt of a certificate of occupancy or certificate of completion, a sign or symbol designed and approved by the council shall be affixed to any electric box attached to the exterior of the structure, if one exists.

e. The property owner or his or her representative shall be responsible for maintaining the sign or symbol on the electric box of the residence, as required by paragraph d of this subdivision, and shall replace the sign or symbol when any changes or modifications are made to the electric box or the sign or symbol is damaged.

2. a. The local building department or local code enforcement official having jurisdiction over the residential structure to be erected, added to, or modified, or his or her designee shall consult with the county fire coordinator, local 911 and emergency dispatchers, and the local fire protection provider or entity deemed pertinent to determine the manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood

or timber construction in the structure.

- b. The chief of the fire district, fire department, or fire company having jurisdiction over the residential structure to be erected, added to, or modified, or his or her designee shall use the information provided under subdivision one of this section to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.
- c. Nothing contained in this section shall in any way affect or diminish section two hundred five-b of the general municipal law.
3. The council shall promulgate rules and regulations it deems necessary to carry into effect the provisions of this section including, but not limited to, the dimensions and color of such sign or symbol.
4. Local governments shall provide by local law or resolution for the enforcement of the provisions of this section, if necessary. Local governments may provide for joint enforcement of the provisions of this section by agreement pursuant to article five-G of the general municipal law.
5. The provisions of this section shall not apply to any city with a population of one million or more persons.

### **Executive Law § 383**

#### **§ 383. Construction with other laws; severability**

1. The provisions of this article and of the uniform fire prevention and building code shall supersede any other provision of a general, special or local law, ordinance, administrative code, rule or regulation inconsistent or in conflict therewith provided however:
  - a. Nothing herein shall impair the validity of any action taken pursuant to or in compliance with such law or regulation before the effective date of the uniform code; and
  - b. Any improvement, modification, alteration, adaptation, redesign or repair required by or pursuant to any general, special or local law, administrative code, rule or regulation enacted and effective before the effective date of the uniform code shall be made in the manner and within the time so required.
  - c. That, in cities with a population of over one million, the existing building and fire prevention codes shall continue in full force and effect beyond January one, nineteen hundred eighty-four unless the council, after analysis and consultation with the building and fire officials of such cities, shall determine that said local code provisions are less stringent than the uniform code. Existing local statutory, regulatory and administrative laws and provisions of such cities shall continue in full force and effect unless the foregoing is determined by the council. Notwithstanding this paragraph, when such factory manufactured homes are intended for use as one or two family dwelling units or multiple dwellings of not more than two stories in height, provided such multiple dwellings are not intended for use as hotels or motels, the provisions of this article and of the uniform fire prevention and building code pertaining to factory manufactured homes shall supersede any other provision of general, special or local law, ordinance, administrative code, rule or regulation inconsistent or in conflict therewith.

2. Nothing herein shall be construed as affecting the authority of the state labor department to enforce a safety or health standard issued under provisions of sections twenty-seven and twenty-seven-a of the labor law.
3. Nothing herein shall be construed to relieve a person from complying with a stricter standard issued pursuant to the Occupational Safety and Health Act of 1970, as amended.
4. If any section of this article or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section or the application of any part thereof to any other person or circumstances and to this end the provisions of each section of the article are hereby declared to be separable.

<a href="#">Compilation of Codes, Rules and Regulations of the State of New York</a>
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<a href="#">Title 19. Department of State</a>
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<a href="#">Chapter XXXII. Division of Code Enforcement and Administration</a>
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## **Part 1201. Uniform Code: Procedures for Certain Classes of Buildings**

### **Section 1201.1. Introduction**

In general, [section 381 of the Executive Law](#) directs that the State's cities, towns and villages administer and enforce the New York State Uniform Fire Prevention and Building Code (Uniform Code). However, the statute contemplates the need for alternative procedures for certain classes of buildings based upon their design, construction, ownership, occupancy or use, and authorizes the Secretary of State to establish those procedures. Those exceptions are the subject of this Part.

### **Section 1201.2. Governmental buildings and activities**

- (a) A city, village, town or county will be accountable for administration and enforcement of the Uniform Code with respect to buildings, premises and equipment in the custody of, or activities related thereto undertaken by, the respective city, village, town or county.
- (b) A city, village, town or county shall be accountable for administration and enforcement of the Uniform Code with respect to buildings, premises and equipment in the custody of, or activities related thereto undertaken by, any special purpose unit of local government created by or for the benefit of the respective city, village, town or county.
- (c) A county or a city which participates in a regional off-track betting corporation established pursuant to article V of the Racing, Pari-Mutuel Wagering and Breeding Law shall be accountable for administration and enforcement of the Uniform Code with respect to buildings, premises and equipment in the custody of, or activities related thereto undertaken by, such corporation, whenever such buildings, premises, equipment or activities are located or occur within the boundaries of the respective county or city.

(d)

(1) The State shall be accountable for administration and enforcement of the Uniform Code with respect to buildings, premises and equipment in the custody of, or activities related thereto undertaken by, a State department, bureau, commission, board or authority.

(2) Without limiting the generality of the provisions of paragraph (1) of this subdivision, the State shall be accountable for administration and enforcement of the Uniform Code with respect to all statewide wireless network facilities (as the term is defined in section 1204.3[j] of this Title) and all activities related thereto undertaken by the Office for Technology; provided, however, that nothing in this paragraph shall be construed as subjecting to the provisions of the Uniform Code any statewide wireless network facility that would not otherwise be subject to the provisions of the Uniform Code.

(3) In the case of a statewide wireless network facility (as that term is defined in section 1204.3[j] of this Title) which is constructed or installed on or in a statewide wireless network supporting building (as that term is defined in section 1204.3[k] of this Title):

(i) the State shall be accountable for administration and enforcement of the Uniform Code with respect to such statewide wireless network facility and all activities related thereto undertaken by the Office for Technology, but the State shall not be accountable for administration and enforcement of the Uniform Code with respect to such statewide wireless network supporting building;

(ii) the governmental entity that would have been accountable for administration and enforcement of the Uniform Code with respect to such statewide wireless network supporting building if such statewide wireless network facility had not been constructed or installed thereon or therein shall remain accountable for administration and enforcement of the Uniform Code with respect to such statewide wireless network supporting building, but such governmental entity shall not be responsible for administration and enforcement of the Uniform Code with respect to such statewide wireless network facility; and

(iii) the State and such governmental entity shall consult with each other and fully cooperate with each other in connection with the performance of their respective administrative and enforcement obligations, and in particular, but not by way of limitation, the State shall make all records in its possession pertaining to such statewide wireless network facility available to such governmental entity upon request by such governmental entity, and such governmental entity shall make all records in its possession pertaining to such statewide wireless network supporting building available to the State upon request by the State. Nothing in this paragraph shall require the State to make available any record which, if disclosed, would jeopardize the capacity of the State, the Office for Technology, or any other State agency (as that term is defined in section 1204.3[h] of this Title) to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures, or if access to such record could otherwise be denied under [section 87 of the Public Officers Law](#).

(e) The State Education Department shall be accountable for administration and enforcement of the Uniform Code with respect to buildings, premises and equipment in the custody of, or activities related thereto undertaken by, school districts and boards of cooperative educational services.

(f) To the maximum extent practicable, a governmental entity acting under this section shall consult with those other governmental entities providing services, under authority of other laws, to those areas where the authority conferred by this section is exercised.

(g) The Secretary of State may examine records of a government related to the administration and enforcement of the Uniform Code under this section. It shall be the duty of such government to make those records available to the Secretary upon request.

### **Section 1201.3. Local government option**

[Executive Law, section 381\(2\)](#), accords a city, town, village or county the option to decline to enforce the Uniform Code. If a city, town or village exercises that option, any power conferred by this Part shall pass in the same manner as any general power under that section. If a county exercises that option, any power conferred by this Part shall pass to the Secretary of State.

### **Section 1201.4. Manufactured housing**

Administration and enforcement of the provisions of the Uniform Code pertaining to factory manufactured homes while at the manufacturing facility, while displayed for sale at a temporary location, or otherwise prior to delivery to a site for permanent installation or erection, shall be by the Department of State. Factory manufactured homes and mobile homes bearing the insignia of approval or certifying seal as required by the code shall be presumed to comply with the applicable regulations.

### **Section 1202.4(c) added, effective 8/29/2018**

(c) Parking garages (as that term is defined in section 1203.3[j][2][iv] of this Title) shall be subject to condition assessments in accordance with section 1203.3(j) of this Title. It shall be the responsibility of the owner or operator of the parking garage to provide the Department of State with the condition assessment reports for any parking garages and to otherwise comply with section 1203.3(j) of this Title. For the purposes of section 1203.3(j)(5) of this Title, the period fixed by the Department of State's code enforcement program as the interval between periodic condition assessments shall be deemed to be three years.

## **Part 1203. Uniform Code and the Energy Code: Minimum Standards for Administration and Enforcement**

### **Section 1203.1. Introduction and definitions**

(a) Introduction. Section 381 of the Executive Law directs the Secretary of State to promulgate rules and regulations for administration of the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation Construction Code.

(b) Definitions. Unless otherwise expressly stated, for the purposes of this Part, the following terms shall be deemed to have the meanings shown in this subdivision:

(c) Assembly area. An area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

- (1) Authority having jurisdiction. Any city, town, village, county, state agency, or other governmental unit or agency responsible for administration and enforcement of either or both of the Codes.
- (3) Building permit. A building permit, construction permit, demolition permit, or other permit that authorizes the performance of work.
- (4) Certificate of compliance. A document issued by the authority having jurisdiction stating that work was done in compliance with approved construction documents and the Codes.
- (5) Certificate of occupancy. A document issued by the authority having jurisdiction certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the authority having jurisdiction, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.
- (6) Codes. The Uniform Code and Energy Code.
- (7) Energy Code. The New York State Energy Conservation Construction Code, Subchapter B of Chapter XXXIII of this Title, adopted pursuant to Article 11 of the Energy Law.
- (8) FCNYS. The 2020 Fire Code of New York State as currently incorporated by reference in Part 1225 of this Title.
- (9) Fire safety and property maintenance inspection. An inspection performed to determine compliance with the applicable provisions of Part 1225 of this Title and the publications incorporated therein by reference and the applicable provisions of Part 1226 of this Title and the publications incorporated therein by reference.
- (10) Hazardous production materials. A solid, liquid, or gas associated with semiconductor manufacturing that has a degree- of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.
- (11) Mobile food preparation vehicles. Vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.
- (12) PMCNYS. The 2020 Property Maintenance Code of New York State as currently incorporated by reference in Part 1226 of this Title.
- (13) RCNYS. The 2020 Residential Code of New York State as currently incorporated by reference in Part 1220 of this Title.
- (14) Repair. The reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.



(15) Sugarhouse. A building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

(16) Uniform Code. The New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of this Title, adopted pursuant to Article 18 of the Executive Law

## **Section 1203.2. Program for administration and enforcement**

(a) Every city, village, town, and county responsible for administration and enforcement of either or both of the Codes shall establish a code enforcement program to provide for such administration and enforcement by local law, ordinance, or other appropriate regulation. Such code enforcement program shall include the features and provisions described in section 1203.3 of this Part.

(b) Where the State is responsible under section 1201.2 (d) of Part 1201 of this Title for administration and enforcement of the Uniform Code, the state agency or agencies determined in accordance with the provisions of Part 1204 of this Title shall administer and enforce the Codes in accordance with Part 1204 of this Title and section 1203.3 (j) of this Part. For the purposes of section 1203.3 (j)(5) of this Part, the period fixed by the code enforcement program of such state agency, as the interval between periodic condition assessments, shall not exceed three years.

(c) Every state agency responsible under section 1201.2 of this Title for administration and enforcement of the Uniform Code and not otherwise included in subdivisions (a) and (b) of this section shall provide for administration and enforcement of the Codes in regulation. Any such regulation shall include the features described in section 1203.3 of this Part.

(d) Every authority having jurisdiction responsible for administration and enforcement of the Uniform Code shall exercise its powers in due and proper manner so as to extend to all people of the State protection from the hazards of fire and inadequate building construction. Every authority having jurisdiction responsible for administration and enforcement of the Energy Code shall exercise its powers in due and proper manner so as to further the purposes of Article 11 of the Energy Law, as applicable.

(e) An authority having jurisdiction may contract directly with an individual or business entity to perform “building safety inspector enforcement activities” or “code enforcement official enforcement activities” (as those terms are defined in Part 1208 of this Title) on behalf of the authority having jurisdiction, subject to the following conditions:

(1) Where an authority having jurisdiction contracts directly with an individual or a business entity to perform any building safety inspector enforcement activities on behalf of such authority having jurisdiction, the authority having jurisdiction shall satisfy itself that each individual performing such contracted-for building safety inspector enforcement activities has qualifications comparable to those of a person who has met the requirements of Part 1208 of this Title applicable to building safety inspectors.

(2) Where an authority having jurisdiction contracts directly with an individual or a business entity to perform any code enforcement official enforcement activities on behalf of such authority having jurisdiction, the authority having jurisdiction shall satisfy itself that each individual performing such contracted-for code enforcement official enforcement activities has qualifications comparable to those of a person who has met the requirements of Part 1208 of this Title applicable to code enforcement officials.

(3) No agreement shall be made by which building permits, certificates of occupancy, temporary certificates of occupancy, certificates of compliance, orders, appearance tickets, or other similar documents related to administration and enforcement of either or both of the Codes are issued by other than public officers of the authority having jurisdiction.

(4) "Special inspections" (as defined in the Uniform Code), including but not limited to, electrical inspections, elevator inspections, welding inspections, and smoke control system inspections are not considered to be building safety inspector enforcement activities or code enforcement official enforcement activities (as defined in Part 1208 of this Title). Accordingly, a special inspector performing a special inspection is not performing a building safety inspector enforcement activity or a code enforcement official enforcement activity and is not required to have qualifications comparable to those of a person who has met the requirements of Part 1208 of this Title. However, an authority having jurisdiction shall not accept or rely upon a special inspection unless the person performing such special inspection:

(i) is a qualified person employed or retained by an agency that has been approved by the authority having jurisdiction and

(ii) has been approved by the authority having jurisdiction as having the competence necessary to inspect a particular type of construction requiring such special inspection.

(f) The persons, offices, departments, agencies, or combinations thereof, authorized and responsible for administration and enforcement of either or both of the Codes, or any portion thereof, shall be clearly identified

### **Section 1203.3. Minimum features of a program for administration and enforcement**

A program for administration and enforcement of either or both of the Codes shall include all features and provisions described in this section 1203.3. Each authority having jurisdiction must provide for each of the listed features through local law, ordinance, or appropriate regulation. Such authority having jurisdiction may adopt provisions for administration and enforcement that are more stringent than the minimum standards set forth in this section.

#### **(a) Building Permits.**

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to be required for work that must conform to either or both of the Codes. Where expressly set forth in their code enforcement program, an authority having jurisdiction may exempt from the requirement for a building permit any one or more of the categories of work listed in section 1203.3 (a)(1)(i) through (viii). An exemption from the requirement to obtain a building permit shall not be deemed an authorization for work to be performed in violation of either or both of the Codes. The following categories of work may be exempted from the requirement for a building permit:

(i) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;

(ii) construction of temporary sets and scenery associated with motion picture, television, and theater uses;

(iii) installation of window awnings supported by an exterior wall of a one-or two-family dwelling or multiple single-family dwellings (townhouses);

(iv) installation of partitions or movable cases less than 5'-9" in height;

(v) painting, wallpapering, tiling, carpeting, or other similar finish work;

(vi) installation of listed portable electrical, plumbing, heating, ventilation, or cooling equipment or appliances;

(vii) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; and

(vii) repairs, provided that the work does not have an impact on fire and life safety, such as

(a) any part of the structural system;

(b) the required means of egress; or

(c) the fire protection system or the removal from service of any part of the fire protection system for any period of time.

(2) Each authority having jurisdiction shall include in its code enforcement program provisions requiring an application for a building permit, or an amendment thereto, to include information sufficient to enable the authority having jurisdiction to determine that the intended work accords with the requirements of the Codes. An application for a building permit shall include, but not be limited to, the following information and documentation:

(i) a description of the location, nature, extent, and scope of the proposed work;

(ii) the tax map number and the street address of any affected building or structure;

(iii) the occupancy classification of any affected building or structure;

(iv) where applicable, a statement of special inspections to be prepared in accordance with the provisions of the Uniform Code;

(v) construction documents (drawings and/or specifications), in the format and quantity acceptable to the authority having jurisdiction, prepared in compliance with section 1203.3 (a)(3);

(vi) any additional submittal documents in the format and quantity acceptable to the authority having jurisdiction as required by the applicable provisions of the Codes;

(vii) any other information and documentation that the authority having jurisdiction may deem necessary to allow the authority having jurisdiction to determine that the proposed work conforms to the Codes.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring construction documents submitted as part of an application for a building permit to be drawn to scale on suitable material or in electronic media. The authority having jurisdiction shall not approve required construction documents unless they show in sufficient detail that they contain

the information and/or documentation required by the applicable provisions of either or both of the Codes, and including but not limited to the following, where applicable:

- (i) describing the location, nature, extent, and scope of the proposed work;
  - (ii) showing that the proposed work will conform to the applicable provisions of the Codes;
  - (iii) showing the location, construction, size, and character of all portions of the means of egress;
  - (iv) showing a representation of the building thermal envelope;
  - (v) showing structural information including but not limited to braced wall designs; the size, section, and relative locations of structural members; design loads; and other pertinent structural information;
  - (vi) showing the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;
  - (vii) a written statement indicating compliance with the Energy Code;
  - (viii) a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site; distances from lot lines; the established street grades and the proposed finished grades; and, as applicable, flood hazard areas, floodways, and design flood elevations
  - (ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number; and
  - (x) include any other information and documentation that the authority having jurisdiction may deem necessary to allow the authority having jurisdiction to determine that the proposed work conforms to the Codes.
- (4) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2 (e)(2), to examine applications for a building permit or for an amendment thereto to ascertain whether the proposed work is in conformance with the requirements of the Codes. Construction documents and any other submittal documents approved as part of a building permit application shall be so marked in writing and by stamp, or in the case of electronic media, an electronic marking. One complete set of approved construction documents and other submittal documents shall be retained by the authority having jurisdiction. One complete set shall be returned to the applicant to be available

at the work site for use by the authorized representatives of the authority having jurisdiction.

(5) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to contain a statement indicating that all work shall be performed in accordance with the approved building permit application including any supporting information and documentation, such as construction documents, written statements, submittal documents, etc. In addition, a building permit shall include a directive indicating that the building permit holder must notify the authority having jurisdiction immediately in the event of changes occurring during construction.

(6) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to be issued with a specific expiration date. The authority having jurisdiction may provide that a building permit shall become invalid unless the work authorized is commenced within a specified period following issuance.

(7) Each authority having jurisdiction shall include in its code enforcement program provisions requiring that when a building permit has been issued in error because of incorrect, inaccurate, or incomplete information, or the work for which the building permit was issued violates either or both of the Codes, such building permit shall be revoked or suspended until such time as the building permit holder demonstrates that all work completed and all work proposed shall be in compliance with applicable provisions of the Codes.

(8) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to be visibly displayed at the worksite and to remain visible until the project has been completed

(b) Construction inspections.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2 (e)(2), to perform construction inspections required by the Codes including those listed in this paragraph, either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the elements of the construction process conform with the applicable requirements of the Codes. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. Inspections shall include but not be limited to the following elements of the construction process, where applicable:

- (i) worksite prior to the issuance of a permit;
- (ii) footing and foundation;
- (iii) preparation for concrete slab;
- (iv) framing;
- (v) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;
- (vi) fire resistant construction;
- (vii) fire resistant penetrations;
- (viii) solid fuel-burning heating appliances, chimneys, flues, or gas vents;

(ix) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, high-performance lighting, and controls; installation, connection, and assembly of factory manufactured buildings and manufactured homes; and

(x) a final inspection after all work authorized by the building permit has been completed.

(2) Each authority having jurisdiction shall include in its code enforcement program provisions requiring work for which a permit has been issued to remain accessible and exposed until inspected and accepted by the authority having jurisdiction and requiring building permit holders to notify the authority having jurisdiction when construction work is ready for inspection

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring that after each inspection, the authority having jurisdiction shall note the work or a portion thereof to be satisfactory as completed, or the building permit holder shall be notified as to the manner in which the work fails to comply with either or both of the Codes, including a citation to the specific code provision or provisions that have not been met. The code enforcement program shall also include provisions requiring work not in compliance with applicable provisions of either or both of the Codes to remain exposed until it has been brought into compliance with the Codes, re-inspected, and found satisfactory as completed.

(c) Stop work orders.

Each authority having jurisdiction shall include in its code enforcement program provisions for the authority having jurisdiction to issue stop work orders to halt work that is determined to be contrary to provisions of either or both of the Codes, is being conducted in a dangerous or unsafe manner, is being performed without obtaining a required building permit, or when a building permit has been issued in error. A stop work order shall state the reason for its issuance and the conditions which must be satisfied before work will be allowed to resume.

(d) Certificates of occupancy, certificates of compliance, and temporary certificates of occupancy.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions for the authority having jurisdiction to issue a certificate of occupancy or a certificate of compliance for any work which is the subject of a building permit and required to comply with either or both of the codes and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. The code enforcement program shall provide that, except as provided in section 1203.3 (d)(4), permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued, or which has been converted from one use or occupancy classification or subclassification to another, shall be granted only by issuance of a certificate of occupancy or a certificate of compliance.

(2) Each authority having jurisdiction shall include in its code enforcement program a provision that precludes the authority having jurisdiction from issuing a certificate of occupancy or a certificate of compliance until the authority having jurisdiction shall have:

(i) inspected the building, structure, or work and determined that the building, structure, or work is in compliance with all applicable provisions of the Codes;

(ii) where applicable, received and reviewed each written statement of structural observations and/or a final report of special inspections required by any applicable provisions of the Uniform Code and determined that the information in such written statement or report adequately demonstrates compliance with the applicable provision of the Uniform Code;

(iii) where applicable, received and reviewed flood hazard certifications required by any applicable provisions of the Uniform Code and determined that the information in such certifications adequately demonstrates compliance with the applicable provision of the Uniform Code;

(iv) where applicable, received and reviewed each written statement of the results of tests performed to show compliance with the Energy Code and determined that the information in such statements adequately demonstrates compliance with the applicable provision of the Energy Code; and

(v) where applicable, verified the affixation of the appropriate seals, insignias, and manufacturers' data plates as required for factory manufactured buildings and/or manufactured homes.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring a certificate of occupancy or certificate of compliance to contain the following information:

(i) the building permit number, if any;

(ii) the date of issuance of the building permit, if any;

(iii) the name, address, and tax map number of the property;

(iv) if the certificate of occupancy or certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy or certificate of compliance is issued;

(v) the use and occupancy classification of the structure;

(vi) the type of construction of the structure;

(vii) the occupant load of the assembly areas in the structure, if any;

(viii) any special conditions imposed in connection with the issuance of the building permit;

(ix) the signature of the official issuing the certificate of occupancy or certificate of compliance; and

(x) the date of issuance of the certificate of occupancy or certificate of compliance.

(4) Each authority having jurisdiction shall include in its code enforcement program provisions allowing the authority having jurisdiction to issue a temporary certificate of occupancy prior to the

completion of the work that is the subject of a building permit. The code enforcement program shall provide that:

(i) A temporary certificate of occupancy shall be limited to a specified period of time during which the building permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Codes.

(ii) The temporary certificate of occupancy shall specify the portion or portions of the building or structure that may be occupied pursuant to the temporary certificate of occupancy, and any special terms or conditions of such occupancy that the authority having jurisdiction may deem to be appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure.

(iii) The temporary certificate of occupancy shall also include the information mentioned in section 1203.3 (d)(3).

(iv) An authority having jurisdiction shall not issue a temporary certificate of occupancy until it determines that the following conditions are met:

- (a) the structure or portions thereof may be occupied safely;
- (b) any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational; and
- (c) all required means of egress from the structure have been provided.

(5) Each authority having jurisdiction shall include in its code enforcement program provisions requiring a certificate of occupancy, certificate of compliance, or temporary certificate of occupancy issued in error or on the basis of incorrect information to be suspended or revoked by the authority having jurisdiction if the relevant deficiencies are not corrected within a specified period of time.

(e) Notification regarding fire or explosion.

Each authority having jurisdiction shall include in its code enforcement program procedures for the chief of any fire department providing firefighting services for a property to notify the authority having jurisdiction of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

(f) Unsafe structures and equipment and conditions of imminent danger.

Each authority having jurisdiction shall include in its code enforcement program procedures for the authority having jurisdiction to identify and address unsafe structures and equipment and conditions of imminent danger consistent with the requirements of the Uniform Code.

(g) Operating permits.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring operating permits for conducting any process or activity or for operating any type of building, structure, or facility listed in this paragraph as follows:

- (i) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;



(ii) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS listed and described in section 1203.3 (g)(1)(ii) as follows:

- (a) Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;
- (b) Chapter 24, "Flammable Finishes." Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
- (c) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;
- (d) Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;
- (e) Chapter 31, "Tents, Temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;
- (f) Chapter 32, "High-Piled Combustible Storage." High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;
- (g) Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;
- (h) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;
- (i) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;
- (j) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;
- (k) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;
- (l) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
- (m) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle.

(iii) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

(iv) buildings containing one or more assembly areas;

(v) outdoor events where the planned attendance exceeds 1,000 persons;

(vi) facilities that store, handle or use hazardous production materials;

(vii) parking garages as defined in section 1203.3 (j);

(ix) buildings whose use or occupancy classification may pose a substantial potential hazard

to public safety, as determined by the authority having jurisdiction; and

(x) other processes or activities or for operating any type of building, structure, or facility at the discretion of the authority having jurisdiction.

(2) Where specifically identified in their code enforcement program, an authority having jurisdiction may exempt from the requirement for an operating permit the processes or activities, or the buildings, structures, or facilities listed in section 1203.3 (g)(1), provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with section 1203.3 (h), and condition assessments are performed in compliance with section 1203.3 (j), as applicable. Neither this paragraph nor the provisions of the code enforcement program of the authority having jurisdiction that implement this paragraph shall limit or impair the right of the authority having jurisdiction to take any other enforcement action, including but not limited to those specified in section 1203.5 of this Part, as may be necessary or appropriate in response to any citation of non-compliance found during a fire safety and property maintenance inspection.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring parties who propose to undertake the types of activities or operate the types of buildings listed in section 1203.3 (g)(1), and not otherwise exempted by section 1203.3 (g)(2), to obtain an operating permit prior to commencing such activity or operation. The code enforcement program shall also include provisions requiring an application for an operating permit to contain sufficient information to enable a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required.

(4) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2 (e)(2), to perform an inspection of the premises prior to the issuance or renewal of an operating permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fails to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.

(5) Where specifically identified in their code enforcement program, an authority having jurisdiction may allow a single operating permit to apply to more than one hazardous activity.

(6) Each authority having jurisdiction shall include in its code enforcement program provisions for operating permits to remain in effect until reissued, renewed, or revoked and shall be issued for a specified period of time consistent with local conditions, but in no event to exceed:

(i) 180 days for tents, special event structures, and other membrane structures;

(ii) 60 days for alternative activities at a sugarhouse;

(iii) three years for the activities, structures, and operations determined per section 1203.3 (g)(1)(ix), and

(iv) one year for all other activities, structures, and operations identified in section 1203.3 (g)(1).

(7) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2(e)(1) or 1203.2 (e)(2), to revoke or suspend an operating permit where a process or activity, or the operation of any type of building, structure, or facility does not comply with applicable provisions of the Uniform Code.

(h) Fire safety and property maintenance inspections.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2 (e)(1) or 1203.2 (e)(2), to perform fire safety and property maintenance inspections either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the premises conform with the applicable requirements of the Codes. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. Fire safety and property maintenance inspections shall be performed at intervals consistent with local conditions, but in no event shall such intervals exceed:

(i) one year for buildings which contain an assembly area;

(ii) one year for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining or recreational facilities; and

(iii) three years for multiple dwellings and all nonresidential occupancies.

(2) Each authority having jurisdiction shall include in its code enforcement program provisions requiring that after each inspection, the authority having jurisdiction shall note the premises as satisfactory, or the owner and operator shall be notified as to the manner in which the premises fails to comply with the Uniform Code, including a citation to the specific Uniform Code provision or provisions that have not been met.

(3) Nothing in this subdivision shall require or be construed to require regular, periodic inspections of (A) owner-occupied one and two-family dwellings, or (B) agricultural buildings used directly and solely for agricultural purposes, provided, however, that this shall not be a limitation on inspections conducted at the invitation of the owner or occupant, or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.

(4) In the case of a building referred to in section 1203.3 (h)(1)(ii), an authority having jurisdiction may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of an inspection performed by the authority having jurisdiction or an individual or entity contracted by the authority having jurisdiction, provided that:

(i) the authority having jurisdiction satisfies itself that the individual performing such inspection satisfies the requirements set forth in section 1203.2 (e)(1) or 1203.2 (e)(2);

(ii) the authority having jurisdiction satisfies itself that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

(iii) such inspections are performed no less frequently than once a year;

(iv) a true and complete copy of the report of each such inspection is provided to the authority having jurisdiction; and

(v) upon receipt of each such report, the authority having jurisdiction takes the appropriate action prescribed by paragraph (2) of this subdivision or verifies the authorized entity performing the inspection has taken the appropriate action consistent with paragraph (2) of this subdivision.

(i) Procedure for complaints.

Procedures shall be established for addressing bona fide complaints which assert that buildings, structures, conditions, or activities fail to comply with either or both of the Codes or with local laws, ordinances, or regulations adopted for administration and enforcement of the either or both of the Codes. The process for responding to such complaints shall include, when appropriate, provisions for inspection of the buildings, structures, conditions, and/or activities alleged to be in violation.

(j) Condition assessments of parking garages.

(1) General. Each authority having jurisdiction shall include in its code enforcement program provisions requiring condition assessments of parking garages. Such provisions shall include, at a minimum, the requirements and features described in this subdivision.

(2) Definitions. For the purposes of section 1203.3 (j), the following terms shall be deemed to have the meanings shown in this paragraph:

(i) Condition assessment. An on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure.

(ii) Deterioration. The weakening, disintegration, corrosion, rust, or decay of any structural element or building component or any other loss of effectiveness of a structural element or building component.

(iii) Parking garage. Any building or structure, or part thereof, in which any structural level, or part thereof is used for parking or storage of motor vehicles, excluding:

(a) buildings in which the only level used for parking or storage of motor vehicles is entirely supported on soil or engineered fill, and not supported on structural framing;

(b) an attached or accessory structure providing parking exclusively for a detached one- or two- family dwelling; and

(c) a townhouse unit with attached parking exclusively for such unit.

(iv) Professional engineer. An individual who is licensed or otherwise authorized under article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations.

(v) Responsible professional engineer. The professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report.

(vi) Unsafe condition. The conditions identified as unsafe in sections 304.1.1, 305.1.1, and 306.1.1 of the PMCNYS.

(vii) Unsafe structure. A structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(3) Condition assessments – general requirements. The owner or operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in section 1203.3 (j)(4), periodic condition assessments as described in section 1203.3 (j)(5), and such additional condition assessments as may be required under section 1203.3 (j)(6). Each condition assessment shall be conducted by or under the direct supervision of a responsible professional engineer. A written report of each condition assessment shall be prepared and provided to the authority having jurisdiction, in accordance with the requirements of section 1203.3 (j)(7). Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

(i) Initial condition assessment. Each parking garage shall undergo an initial condition assessment as follows:

(ii) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.

(iii) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:

(a) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

(b) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

(c) if originally constructed between January 1, 2003 and August 28, 2018, then prior to

October 1, 2021.

(4) Periodic condition assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed the lesser of:

(i) three years; or

(ii) at such shorter period as may be fixed by the authority having jurisdiction in its code enforcement program.

(5) Additional condition assessments.

(i) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under section 1203.3 (j)(5), the authority having jurisdiction shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(ii) If the authority having jurisdiction becomes aware of any new or increased deterioration which, in the judgment of the authority having jurisdiction, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under section 1203.3 (j)(5), the authority having jurisdiction shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the authority having jurisdiction to be appropriate.

(6) Condition assessment reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the authority having jurisdiction within such time period as fixed by the authority having jurisdiction. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

(i) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

(ii) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

(iii) an evaluation and description of the unsafe conditions;

(iv) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

(v) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions.

(vi) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions.

(vii) the responsible professional engineer's recommendation regarding preventative maintenance;

(viii) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(ix) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in his or her professional judgment

(7) The authority having jurisdiction shall review each condition assessment report. The authority having jurisdiction shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the authority having jurisdiction shall, by order to remedy or such other means of enforcement as the authority having jurisdiction may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to section 1203.3 (j)(7)(ii) and section 1203.3 (j)(7)(iii). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. Neither this paragraph nor the provisions of the code enforcement program of the authority having jurisdiction that implement this paragraph shall limit or impair the right of the authority having jurisdiction to take any other enforcement action, including but not limited to placing a do not occupy order or suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

(8) The authority having jurisdiction shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the authority having jurisdiction with a written statement attesting to the fact that he or she has been so engaged, the authority having jurisdiction shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The authority having jurisdiction shall be permitted to require the owner or

(9) Neither this subdivision nor the provisions of the code enforcement program of the authority having jurisdiction that implement this subdivision shall limit or impair the right or the obligation

of the authority having jurisdiction:

(i) to perform such construction inspections as are required by the stricter of section 1203.3 (b) or the code enforcement program of the authority having jurisdiction;

(ii) to perform such periodic fire safety and property maintenance inspections as are required by the stricter of section 1203.3 (h) or the code enforcement program of the authority having jurisdiction; and/or

(iii) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the authority having jurisdiction by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

(10) The use of the term responsible professional engineer in this subdivision shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

#### (k) Climatic and Geographic Design Criteria

The city, town, and village responsible for administration and enforcement of the Uniform Code shall establish and make available climatic and geographic design criteria as required by the Uniform Code. This includes, but is not limited to:

(1) Establishing design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;

(2) Establishing heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and

(3) Establishing flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:

(i) the accompanying Flood Insurance Rate Map (FIRM)

(ii) Flood Boundary and Floodway Map (FBFM); and

(iii) related supporting data along with any revisions thereto.

#### (l) Recordkeeping.

A system of records of the features and activities specified in section 1203.3 (a) through section 1203.3 (k) and of fees charged and collected, if any, shall be established and maintained.

### **Section 1203.4 Program review and reporting.**



(a) Every city, village, town, and county charged under subdivision 2 of section 381 of the Executive Law with administration and enforcement of the Uniform Code shall annually submit to the Secretary of State, on a form prescribed by the Secretary of state, a report of its activities relative to administration and enforcement of the Codes.

(b) Upon request of the Department of State, every authority having jurisdiction shall provide to the Department of State true and complete copies of the records and related materials such authority having jurisdiction is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of either or both of the Codes as may be requested by the Department of State. Failure to produce the requested materials within a reasonable timeframe shall permit an inference that the minimum standards of this Part have not been met. No such inference shall be based on the failure to provide copies of records if such records were, prior to a request for copies, disposed of pursuant to the applicable records retention and disposition schedules established by the authority having jurisdiction or pursuant to the Arts and Cultural Affairs Law.

### **Section 1203.5 Compliance with an order to remedy.**

(a) Introduction and purpose. Section 381 of the Executive Law provides for the administration and enforcement of the Codes and authorizes the Secretary of State to promulgate regulations establishing minimum standards for such administration and enforcement. In addition, subdivision 2 of section 382 of the Executive Law provides, in part, that any person, having been served, either personally or by registered or certified mail, with an order to remedy any condition found to exist in, on, or about any building in violation of the Uniform Code, who shall fail to comply with such order within the time fixed by the regulations promulgated by the Secretary of State pursuant to subdivision 1 of section 381 of the Executive Law, such time period to be stated in the order, shall be punishable by a fine of not more than \$1,000 per day of violation, or imprisonment not exceeding one year, or both. The purpose of this section is to fix, for the purposes of subdivision 2 of section 382 of the Executive Law, the time within which a person or entity served with an order to remedy is required to comply with such order to remedy.

(b) Definitions. In this section, the following terms shall have the following meanings:

(1) Order to remedy. An order to remedy any condition found to exist in, on, or about any building in violation of the Uniform Code.

(2) Comply with an order to remedy. To remedy completely each violation described in the order to remedy.

(c) Time for compliance with order to remedy. For the purposes of subdivision 2 of section 382 of the Executive Law, the time within which a person or entity served with an order to remedy is required to comply with such order to remedy is hereby fixed at 30 days following the date of such order to remedy.

(d) Statement to be included in order to remedy. For the purpose of complying with that part of subdivision 2 of section 382 of the Executive Law that provides “such time period to be

stated in the order,” an order to remedy shall include a statement substantially similar to the following: “The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by [specify date], which is thirty (30) days after the date of this Order to Remedy.”

(e) Service. An order to remedy shall be served personally or by certified or registered mail within five days of the date of the order. For the purposes of this section:

(1) if an order to remedy is served personally by any authorized means that requires more than one action by the person effecting service (such as service by “delivery and mail” similar to that authorized by CPLR 308[2]), the order to remedy shall be deemed to be served on the date on which the last required action is taken; and

(2) an order to remedy served by certified or registered mail shall be deemed to be served on the date it is mailed.

(f) Requiring immediate commencement of corrective action. Nothing in this section shall be construed as prohibiting any authority having jurisdiction that issues an order to remedy from including in such order to remedy provisions ordering the person or entity served with such order to remedy:

(1) to begin to remedy the violations described in the order to remedy immediately, or within some other specified period of time which may be less than 30 days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within 30 days of the date of such order to remedy; and/or

(2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by the code enforcement program of the authority having jurisdiction or by any other applicable statute, regulation, rule, local law or ordinance, and which the authority having jurisdiction may deem appropriate, during the period while such violations are being remedied.

(g) Other means of enforcing the Uniform Code. Nothing in this section shall be construed as requiring an authority having jurisdiction to issue an order to remedy in a given situation where violations of the Uniform Code are found to exist if, in the judgment of the authority having jurisdiction, such violations can be addressed adequately by the use of other enforcement tools or by other means. Nothing in this section shall be construed as limiting the authority of an authority having jurisdiction to employ any other means of enforcing either or both of the Codes, including, but not limited to;

(1) issuing notices of violation;

(2) issuing appearance tickets;

(3) commencing and prosecuting an appropriate action or proceeding pursuant to that part of subdivision 2 of section 382 of the Executive Law that provides that any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the “construction” (as defined in subdivision 4 of section 372 of the Executive Law) of any building who shall knowingly violate any of the applicable provisions of the Uniform Code or any lawful order of a city,

village, town, county, state agency or the Secretary of State made thereunder regarding standards for construction, maintenance, or fire protection equipment and systems, shall be subject to a fine of not more than \$1,000 per day of violation, or imprisonment not exceeding one year, or both for the first 180 days, and for the following 180 days shall be punishable by a fine of no less than \$25 and not more than \$1,000 per day of violation or imprisonment not exceeding one year, or both and thereafter shall be punishable by a fine of no less than \$50 and not more than \$1,000 per day of violation or imprisonment not exceeding one year, or both:

(4) commencing and prosecuting an appropriate action or proceeding pursuant to subdivision 3 of section 382 of the Executive Law which seeks, in a case where the construction or use of a building is in violation of any provision of the Uniform Code or any lawful order obtained thereunder, an order from a Justice of the Supreme Court, New York City civil court, a city court, district court, or county court directing the removal of the building or an abatement of the condition in violation of such provisions;

(5) commencing and prosecuting an appropriate action or proceeding pursuant to subdivision 4 of section 382 of the Executive Law that provides that where a building has been altered in violation of any provision of the uniform code or any lawful order obtained thereunder, and such alteration impedes a person's egress from such building during a fire or other emergency evacuation, the owner of such building who has knowledge of such alteration or should have had knowledge of such alteration shall be subject to a civil penalty of up to \$7,500;

(6) issuing stop work orders;

(7) revoking or suspending building permits, operating permits, and/or certificates of occupancy pursuant to the procedures established in the code enforcement program of the authority having jurisdiction or pursuant to any other applicable statute, regulation, rule, local law or ordinance;

(8) commencing and prosecuting an appropriate action or proceeding to impose such criminal and/or civil sanctions as may be provided in any applicable statute, regulation, rule, local law or ordinance;

(9) condemning and/or placarding a building in accordance with the applicable provisions of the Uniform Code;

(10) taking any action authorized by the procedures for identifying and addressing unsafe structures and equipment as established in the code enforcement program of the authority having jurisdiction or by any other applicable statute, regulation, rule, local law or ordinance; or

(11) issuing orders to remedy violations of the Energy Code pursuant to subdivision (1) of section 11-108 of the Energy Law.

(h) Office of Fire Prevention and Control. For the purposes of this section, the term order to remedy shall not include any order issued by the Office of Fire Prevention and Control pursuant to section 156-e of the Executive Law (or pursuant to any regulation promulgated thereunder) requiring the remedying of any condition found to exist in, on or about any building under the jurisdiction of a public college or independent college (as these terms are defined in section

807-b of the Education Law) which violates the Uniform Code. Nothing in this section shall be construed as fixing the time within which a public college or independent college shall have to comply with any such order, or as requiring any such order to include the statement prescribed in section 1203.5 (d).

## **Part 1204. Uniform Code: Administration and Enforcement by State Agencies**

### **Section 1204.1. Introduction**

Section 381 of the Executive Law directs the Secretary of State to promulgate rules and regulations prescribing minimum standards for administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code). Section 1201.2(d) of this Title provides that the State shall be accountable for administration and enforcement of the Uniform Code with respect to:

- (a) buildings, premises, and equipment in the custody of, or activities related thereto undertaken by, a State agency; and
- (b) all statewide wireless network facilities and all activities related thereto undertaken by the Office for Technology.

This Part establishes procedures for the administration and enforcement of the Uniform Code by state agencies. Buildings and structures exempted from the Uniform Code by other preclusive statutes or regulations are not subject to the requirements of this Part.

### **Section 1204.2. Effective date**

This Part shall take effect June 1, 1990.

### **Section 1204.3. Definitions**

- (a) **Code.** The New York State Uniform Fire Prevention and Building Code.
- (b) **Code compliance certificate.** A written document issued by a construction-permitting agency indicating that the agency has discovered no material deviations from applicable code provisions in a building or structure or in work performed, and authorizing the use or occupancy of a particular building, structure, or equipment.
- (c) **Construction emergency.** Damage to or a malfunction in buildings or property of the State of New York caused by an unanticipated, sudden and unexpected occurrence which involves a pressing necessity for immediate repair, reconstruction or maintenance in order to permit the safe continuation of a necessary public use or function, or to protect the property of the State of New York, or the life, health or safety of any person.
- (d) **Construction permit.** A written document issued by a construction-permitting agency authorizing construction to proceed on a particular project after a determination by the agency that the project as proposed will comply with applicable provisions of the Uniform Code.
- (e) **Construction-permitting agency.** The Department of Environmental Conservation,

the Department of State, the Office of General Services, the Office of Mental Health, the Office of Mental Retardation and Developmental Disabilities, the Office of Parks, Recreation and Historic Preservation, the Facilities Development Corporation, the Urban Development Corporation, the State University of New York, the State University Construction Fund, the Dormitory Authority of the State of New York, the New York Power Authority, the New York State Thruway Authority and any other State agency so designated by the Secretary.

(f) **Custody.** The effective control of a building or structure.

(1) Buildings leased pursuant to chapter 354 of the Laws of 1963 or chapter 152 of the Laws of 1964 are to be considered within the custody of the State of New York.

(2) The State of New York shall not be deemed to have custody of buildings or building spaces privately owned which are occupied by State agencies pursuant to a commercial lease made by the Office of General Services or the Office of Mental Health with the private owner.

(3) Criteria for determining whether the State possesses effective control of a building include but are not limited to the following:

(i) ownership of the building or the land on which it is located;

(ii) rights of entry or limitations thereon of an owner or landlord with regard to a building;

(iii) rights or obligations to make improvements or repairs to a building;

(iv) whether a lease provides for total or nearly total discretion by the lessee with regard to the use or alteration of a building; and

(v) whether a particular building is subject to taxation or whether payments in lieu of taxes are paid by the occupant(s).

(4) Notwithstanding any other provision of this subdivision to the contrary and without regard to the criteria mentioned in paragraph (3) of this subdivision, for the purposes of this Part the Office for Technology shall be considered to have custody and effective control of all statewide wireless network facilities; provided, however, that nothing in this subdivision shall be construed as subjecting to the provisions of the Code any statewide wireless network facility that would not otherwise be subject to the provisions of the Code; and provided further that for the purposes of this Part, the Office for Technology shall not be considered to have custody or effective control of any statewide wireless network supporting building merely by reason of the construction or installation of any statewide wireless network facility thereon or therein.

(g) **Secretary.** The Secretary of State.

(h) **State agency.**

(1) A department, bureau, commission, board, public authority or other agency of the

State of New York including a public benefit corporation whose board of directors includes any member appointed by the Governor.

(2) A subdivision of any department, bureau, commission, board, public authority or other agency of the State which is easily identifiable and which for most other purposes is treated as an independent State agency.

(3) Without limiting the generality of paragraphs (1) and (2) of this subdivision, for the purposes of this Part and for the purposes of Part 1201 of this Title, the term "State agency" shall include the Office for Technology.

(i) **Statewide wireless network.** An integrated statewide communications system intended to link state and local first responders to each other and to allow state and local first responders to communicate reliably during emergency situations, as contemplated by section 402(1)(a) of the State Technology Law. The term "statewide wireless network" shall include such communications system as originally developed and constructed and as thereafter extended, improved, upgraded, or otherwise modified from time to time.

(j) **Statewide wireless network facility.** Any tower, antenna, or equipment which is used or intended to be used in the operation of the statewide wireless network, and any building or structure which is constructed specifically for the purpose of supporting or containing any such tower, antenna, or equipment.

(k) **Statewide wireless network supporting building.** A building or structure which is not a statewide wireless network facility (i.e., which was not constructed specifically for the purpose of supporting or containing a tower, antenna, or equipment which is used or intended to be used in the operation of the statewide wireless network), but which has a statewide wireless network facility constructed or installed thereon or therein. For example, if a tower, antenna, and equipment used or intended to be used in the operation of the statewide wireless network, and a building or structure which will contain such equipment or support such tower, are constructed on the top of an existing office building, then:

(1) such office building would be a statewide wireless network supporting building;

(2) such office building would not be a statewide wireless network facility; and

(3) the tower, antenna, equipment, and building or structure constructed on the top of such office building would be a statewide wireless network facility.

(l) **Temporary approval for occupancy.** A written document permitting a building or a portion thereof to be occupied for a temporary period notwithstanding the fact that construction of the building may not be complete or that violations of the code remain unresolved.

#### **Section 1204.4. Custody by the Office of General Services**

For the purposes of this Part the Office of General Services shall be considered to have custody of all buildings leased pursuant to chapter 152 of the Laws of 1964 or chapter 354 of the Laws of 1963 and of all buildings within the statutory jurisdiction of the Office of General Services which have not been transferred by lease into the custody of a leasee.

#### **Section 1204.5. Code coordinator**

(a) Each State agency unless exempted pursuant to section 1204.15 of this Part shall designate one or more code coordinators who shall be responsible for the agency's compliance with this Part so that the buildings, premises, equipment, and activities of the agency are maintained and operated in conformance with applicable provisions of the code.

(b) Code coordinators shall be designated by the commissioner, director or similar chief executive official of the State agency.

(c) Code coordinators shall be responsible for providing for fire safety inspections and inspections in response to complaints regarding conditions or activities allegedly failing to comply with provisions of the Uniform Code. In addition, coordinators shall be responsible for their agency's compliance with Parts 1174, 1195 and 1196 of Title 9 of the Official Compilation of Codes, Rules and Regulations including the preparation of the reports required under those Parts.

(d) Code coordinators shall complete a course of instruction as specified by the Secretary.

(e) When a State agency has designated more than one code coordinator, one of the coordinators shall be identified as responsible for the State agency's overall compliance with this Part.

#### **Section 1204.6. Code compliance manager**

(a) The commissioner, director or similar chief executive official of each construction-permitting agency shall designate one or more code compliance managers.

(b) A code compliance manager shall be:

(1) an architect licensed to practice in New York State; or

(2) a professional engineer licensed to practice in New York State; or

(3) an individual otherwise qualified by reason of training and experience who has demonstrated knowledge of the construction aspects of the code and who has at least two years of experience working directly with the code.

(c) Code compliance managers shall complete a course of instruction as specified by the Secretary.

(d) Code compliance managers are authorized to issue construction permits and code compliance certificates for work undertaken by a State agency which is subject to provisions of the Uniform Code. Such managers shall also be responsible for providing for the review of requests for construction permits, for inspections during the process of construction, and for inspections in response to complaints regarding work which is subject to the Uniform Code. When appropriate they may issue notices of violations, stop work orders, and temporary approvals for occupancy.

(e) An architect or engineer who affixes his seal to a set of plans or specifications as the designer of record for a specific project shall not act as the code compliance manager for that project.

#### **Section 1204.7. Construction permits**

(a) On or after July 1, 1990, no State agency shall commence the erection, construction, enlargement, alteration, improvement, relocation, removal, or demolition of any building or

structure without first obtaining a construction permit from a construction-permitting agency. Work which is not subject to the Uniform Code shall not require a permit. No permit shall be required for the performance of necessary repairs which do not materially affect structural elements and/or the plumbing, electrical, or heating/ventilation systems, nor for the construction of storage facilities of less than 3000 cubic feet. No permit shall be required for work costing \$20,000 or less on an existing building provided that such exemption does not conflict with the procedures of any construction-permitting agency involved in the project. All work shall nevertheless be done in conformance with the Uniform Code.

(b) Prior to the issuance of a construction permit, the issuing agency shall obtain and retain on file the following information:

- (1) a description of the site upon which the proposed work is to be done;
- (2) a description of the use or occupancy of all parts of the land and of the proposed building or structure;
- (3) where work is proposed for an existing structure, a description of the current use or occupancy of the structure;
- (4) a description of the work proposed to be undertaken;
- (5) the name(s) of the State agency which will have custody of the structure during construction and after the project is completed; and
- (6) a complete set of plans and specifications for the proposed project.

The issuing agency may waive the requirement for plans and specifications where the work to be done involves minor alterations or where plans and specifications are otherwise unnecessary.

(c) Each State agency seeking a construction permit shall be responsible for providing to the construction-permitting agency the information specified in subdivision (b) of this section. During the period that the permit is in effect the applicant agency shall notify the issuing agency whenever any changes occur in the information contained within a permit application. A permit shall not be issued unless the proposed work is determined to be in conformance with the requirements of the Uniform Code. The authority conferred by a permit may be limited by conditions contained therein.

(d) A construction permit issued pursuant to this Part may be suspended or revoked by the issuing agency if it is determined that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit or if there has been a misrepresentation or a falsification of a material fact in connection with the application for the permit.

(e) A construction permit issued pursuant to this Part shall be valid for a period of time specified by the issuing agency, such period not to exceed three years. A construction permit shall expire upon the issuance of a code compliance certificate. A construction permit may be renewed for successive periods of up to three years each provided that:

- (1) the permit has not been revoked or suspended at the time the application for renewal is made; and



(2) the relevant information included in the permit application is up to date.

(f) No State agency shall disburse funds for work requiring a construction permit until such permit has been obtained.

(g) In the event of the occurrence of a construction emergency, a State agency may undertake emergency repairs or reconstruction work without first obtaining a construction permit as required by subdivision (a) of this section. All work, however, should be done in conformance with applicable provisions of the Uniform Code. The occurrence of a construction emergency will not exempt a State agency from the requirement of section 1204.9 of this Part to obtain a code compliance certificate for all work subject to provisions of the Uniform Code. As soon as emergency circumstances allow and before the issuance of a code compliance certificate for any work performed, the agency which undertook the work shall submit to the appropriate construction-permitting agency documentation sufficient to establish that all work was performed in compliance with applicable provisions of the Uniform Code.

### **Section 1204.8. Inspections during construction**

(a) Each construction-permitting agency shall provide for construction inspections of all work for which the agency has issued a construction permit under this Part. Work shall be inspected during the course of construction so as to observe the foundation, framing, superstructure, electrical system, plumbing system, heating/ventilating/air conditioning system, fire protection and detection system, and exit features.

(b) A construction-permitting agency may arrange for the inspections described in subdivision (a) of this section to be performed by a State agency managing construction of a project, by a design consultant, or by another party. Where the building, structure, or portion thereof which is the subject of a construction permit exceeds 20,000 cubic feet, a final inspection must be performed by the construction-permitting agency which issued the construction permit before a code compliance certificate may be issued.

### **Section 1204.9. Use and occupancy of buildings**

(a) Upon the completion of all projects for which a construction permit has been issued in accordance with this Part, the State agency which undertook the project shall obtain a code compliance certificate from the agency which issued the construction permit. No building erected subject to the Uniform Code and this Part shall be used or occupied until a code compliance certificate or a temporary approval for occupancy is issued. No building enlarged or altered, or upon which work has been performed which is subject to provisions of the Uniform Code, shall continue to be occupied or used unless a code compliance certificate or a temporary approval for occupancy is issued. Work exempted from the requirement to obtain a construction permit pursuant to section 1204.7(a) of this Part shall similarly be exempted from the requirement to obtain a code compliance certificate.

(b) The occupancy classification, as defined in Part 701 of Title 9 of the Official Compilation of Codes, Rules and Regulations, of a building in the custody of the State of New York shall not be changed unless a code compliance certificate authorizing such a change or a temporary approval for occupancy has been issued. Before a code compliance certificate is issued the State agency with custody of such building must establish that such change will conform with all applicable provisions of the Uniform Code.

(c) A code compliance certificate shall only be issued after an inspection is conducted which:

- (1) indicates substantial completion of any work for which a construction permit has been issued; and
- (2) reveals no uncorrected deficiency or material violation of the Uniform Code within the area or work for which the certificate is to be issued.

#### **Section 1204.10. Temporary approvals for occupancy**

(a) At the discretion of a construction-permitting agency, a temporary approval for occupancy may be issued if it is determined that a building or structure or a designated portion of a building or structure is sufficiently complete so that it may be safely occupied, or that work performed pursuant to a construction permit may be safely put to the use for which it is intended. The temporary approval for occupancy may place limitations upon the occupancy or use of a building or structure or it may require the State agency receiving such temporary approval to undertake specific precautions when using or occupying the premises. Any required limitations or precautions shall be clearly stated upon a temporary approval for occupancy when issued.

(b) A temporary approval for occupancy shall be valid for a period specified by the construction-permitting agency issuing such approval, such period not to exceed one year. A temporary approval for occupancy may be renewed at the discretion of the issuing agency if it is determined that the particular building or structure may be safely occupied or safely put to the use for which it is intended.

(c) Failure to comply with any limitations or precautions specified on a temporary approval for occupancy shall invalidate such approval.

#### **Section 1204.11. Stop work orders and revocation of permits and certificates**

A construction-permitting agency may suspend or revoke a construction permit, a code compliance certificate, or a temporary approval for occupancy issued by such agency, or it may issue a stop work order halting construction under its jurisdiction, if violations of the Uniform Code or this Part are discovered, and it is determined to be in the best interests of public safety or of the State of New York to do so.

#### **Section 1204.12. Fire safety inspections**

(a) Beginning January 1, 1991, each State agency shall commence a program of periodic fire safety inspections of buildings within its custody. At least once every three years each State agency shall inspect for compliance with applicable provisions of the Uniform Code all buildings or portions thereof within its custody which are classified as low hazard storage (C4.1) or moderate hazard storage (C4.2) as defined by Parts 701 and 702 of Title 9 of the Official Compilation of Codes, Rules and Regulations. All other buildings or portions thereof within the custody of a State agency shall be inspected at least once per year. A report setting forth the findings of the inspection shall be prepared by the agency's code coordinator.

(b) Bona fide complaints alleging conditions in violation of the Uniform Code shall be investigated and when necessary, inspections shall be conducted.

(c) State agencies shall correct all code violations within a reasonable amount of time after their discovery.

(d) Each State agency shall prepare and maintain a correction plan for all code violations which remain uncorrected 60 days after their discovery.

(e) In addition to the periodic fire safety inspections of buildings within its custody required by subdivision (a), each State agency shall commence a program of having condition assessments conducted of parking garages within its custody in accordance with section 1203.3(j) of Part 1203 of this Title.

### **Section 1204.13. Agency relationships**

(a) No construction-permitting agency shall delegate or transfer its authority to issue construction permits, code compliance certificates, or temporary approvals for occupancy to another State agency or to another party.

(b) Except as prohibited in subdivision (a) of this section, State agencies may arrange for the performance of required code related activities through agreements with other State agencies or other parties. Such agreement, however, shall not exempt a State agency from the obligation to appoint a code coordinator, to prepare an annual report pursuant to section 1204.14 of this Title and to comply with provisions of the Uniform Code.

(c) When more than one construction-permitting agency is involved in a particular construction project, such agencies may agree among themselves as to which agency shall act as the construction-permitting agency for the project. In the event of a dispute as to which agency shall act as construction-permitting agency, a decision shall be made based upon the following order of preference:

- (1) the design agency;
- (2) the construction agency; or
- (3) the agency owning or with custody of the particular building or structure.

If the agencies involved are unable to agree, the Department of State shall be the final arbiter in determining which agency shall act as construction-permitting agency.

(d) When no construction-permitting agency is designing or constructing a specific project, the Office of General Services shall act as the construction-permitting agency for the project. Except for the Office of General Services, designation as a construction-permitting agency does not obligate a State agency to undertake construction-permitting responsibilities for any project for which the agency has no design or construction role.

(e) When an agency occupies a building or a portion thereof which is owned by or in the custody of another State agency, the agency occupying the space must notify the agency with custody or ownership of any physical changes to the building which are proposed or which are needed to achieve compliance with applicable provisions of the Uniform Code.

(f) In response to allegations of code violations or for other good cause, the Department of State, after notice to the agency or agencies involved, may inspect any building or construction activity

in the custody of a State agency.

(g) In the event of a dispute arising between State agencies concerning the application of this Part, the Department of State, at the request of any party and after consultation with all the parties, may make a ruling binding on all parties.

(h) To the maximum extent practicable, a State agency acting pursuant to this Part shall consult with any other governmental entities providing services, under authority of other laws, to those areas where the authority conferred by this Part is exercised.

## **Section 1204.14. Annual reports and documents**

(a) On or before February 1st of each year, each State agency shall prepare a report pertaining to the preceding calendar year which shall include the following information:

(1) the name and address of the agency, the code coordinator, and any code compliance managers;

(2) a list of all construction permits, code compliance certificates, and temporary approvals for occupancy which were issued or received during the preceding year along with an indication of which permits, certificates and temporary approvals were still valid on the preceding December 31st;

(3) a list of all fire safety inspections conducted within buildings or structures in the custody of the particular State agency;

(4) a list of all code violations within the agency's buildings or structures which were not corrected within 60 days of their discovery;

(5) a statement of the current status of the violations noted in paragraph (4) of this subdivision and a plan to correct any such violations still uncorrected; and

(6) a list of all code related complaints and their disposition.

(b) As a part of its first annual report, each State agency shall determine which of the buildings or portions of buildings it occupies, uses, maintains, or operates are within its custody and which are within the custody of another State agency or are subject to code enforcement by the authority responsible for enforcement in the particular municipality where the building is located. Any changes in custody and consequent responsibility for code enforcement shall be identified in subsequent annual reports prepared by the agency.

(c) Within 30 days after the preparation of its annual report each State agency shall notify the Secretary of its completion.

(d) Construction-permitting agencies may establish procedures and forms consistent with this Part so as to effectively administer their responsibilities.

(e) All reports, construction permits, code compliance certificates, and temporary approvals for occupancy issued pursuant to this Part shall be prepared in a form acceptable to the Secretary so as to include sufficient information to identify the State agencies, the particular facilities, and the specific projects involved.

(f) The Secretary may examine the records of State agencies relating to the administration and enforcement of the Uniform Code. It shall be the duty of State agencies to make such records available to the Secretary.

### **Section 1204.15. Agency exemption**

(a) Individual State agencies may request that they be exempted from the requirements imposed by sections 1204.5 and 1204.14 of this Part. The Secretary may grant such exemptions under the following conditions:

- (1) the State agency does not have custody of any building or portion of a building;
- (2) all buildings occupied by the State agency are within the custody of the Office of General Services or are subject to code enforcement by a city, town, village, county or the Department of State; and
- (3) the State agency does not construct buildings or structures.

(b) The Secretary may review the exempt status of State agencies and rescind such status if it is determined that the particular State agency is no longer qualified for the exemption.

### **Section 1204.16. Designation as a construction-permitting agency**

(a) State agencies which design, construct, or regulate buildings may apply to the Secretary for designation as a construction-permitting agency. Such application shall be in a form acceptable to the Secretary.

(b) Applications for designation shall be reviewed to determine whether the applying agency has demonstrated competency in design and construction of buildings and knowledge of the provisions of the Uniform Code. Where the Secretary finds that the applicant agency is capable of undertaking code enforcement activities, such agency shall be designated as a construction-permitting agency.

(c) Periodically the Secretary may review the records of construction-permitting agencies pertaining to the construction of buildings and to the activities performed pursuant to authority granted by this Part. When the Secretary finds that administration of the Uniform Code by a construction-permitting agency does not comply with the minimum standards established by this Part or Part 1203 of this Title, or that construction activities regulated by the agency do not substantially conform with applicable provisions of the Uniform Code, the agency's designation as a construction permitting agency may be rescinded.

### **Section 1204.17. Authorities and public benefit corporations**

Where a State authority or public benefit corporation participates in the construction of a new building or in the conversion, alteration, addition, or repair of an existing building and where upon its completion such building will be in the custody of an entity other than a State agency, administration and enforcement of the Uniform Code with respect to the construction, conversion, alteration, addition or repair will be the responsibility of the code enforcement agency generally performing those functions at the location of the work. The responsibility of a local code

enforcement agency may be suspended during the period of the work if, acting pursuant to an express statutory grant, the authority or public benefit corporation exercises such discretion. In that event, a construction-permitting agency will be responsible for administration and enforcement of the Uniform Code with regard to the particular project. If previously designated as a construction-permitting agency, the particular authority or public benefit corporation participating in the project may serve as the agency responsible for administration and enforcement of the code. A construction-permitting agency will be similarly responsible where the Uniform Code is applied in lieu of local building construction regulations. Upon completion of the work, administration and enforcement of the Uniform Code will revert to the local agency ordinarily responsible for same.

## **Section 1204.18. Buildings under the supervision of the Department of Transportation Real Estate Division**

With regard to buildings on property acquired by the Department of Transportation for proposed transportation projects and which are the subject of permits issued by the Real Estate Division allowing use of the building by private entities until the property is needed for the construction of the transportation project, it shall be the responsibility of the occupants of such buildings to ensure that the building complies with applicable provisions of the Uniform Code. The local code enforcement agency ordinarily responsible for code enforcement where the building is located shall be responsible for administration and enforcement of the Uniform Code with regard to the particular building. Such responsibility shall include providing for the performance of periodic fire safety inspections of the building in accordance with a schedule established by the local enforcement agency for the particular category of the building. Upon the termination of a permit allowing the private use of a building under the supervision of the Real Estate Division, the Department of Transportation shall assume responsibility for ensuring that such building is maintained in compliance with applicable provisions of the Uniform Code and that periodic fire safety inspections of each building are conducted in accordance with the schedule established in section 1204.12 of this Part.

## **Part 1205 Uniform Code: Variance Procedures**

### **Section 1205.1. Introduction**

Section 381 of the Executive Law directs the Secretary of State to promulgate rules and regulations for the administration of the Uniform Fire Prevention and Building Code (Uniform Code) including the establishment of a procedure whereby any provision or requirement of the code may be varied or modified. Such procedure is the subject of this Part.

### **Section 1205.2. Regional boards of review**

The regional boards of review previously created by the Secretary of State for the Uniform Code are continued. The regions previously designated for each of the boards by the Secretary of State are also continued. The secretary may, from time to time, alter the number of regional boards of review or re-designate the regions within which boards may exercise their powers, or both.

### **Section 1205.3. Membership**

(a) Each regional board of review shall be composed of five members, one of whom shall be a registered architect licensed to practice in this State, one of whom shall be a professional engineer licensed to practice in this State, one of whom shall have a background in building code

enforcement, one of whom shall have a background in fire prevention, and one of whom shall be a businessman or lawyer. At least one of the five shall, in addition, be a local government official. Each member shall be a resident of the region of the board to which he is appointed.

(b) The members of a regional board of review shall be appointed by the secretary to serve staggered three-year terms. An appointment to fill a vacancy shall be made in the manner of the original appointment for the unexpired term. A member may be reappointed at the expiration of his term. The members of a regional board of review shall annually choose from among their number a chairman. Any member of a regional board of review may be removed by the secretary for inefficiency, neglect of duty, misconduct, or malfeasance in office. If a member is temporarily unavailable to attend upon his duties, the secretary, or the secretary's designee, may designate a corresponding member of any other regional board to perform those duties during the period of unavailability.

#### **Section 1205.4. Powers and duties**

(a) Each regional board of review shall have the power to vary or modify, in whole or in part, any provision or requirement of the Uniform Code in cases where strict compliance with such provision or requirement would entail practical difficulties or unnecessary hardship or would otherwise be unwarranted; provided, however, that any such variance or modification shall not substantially adversely affect provisions for health, safety, and security and that equally safe and proper alternatives may be prescribed. Each regional board of review shall also have the power to hear and decide appeals of any order or determination, or the failure within a reasonable time to make an order or determination, of an administrative official charged to enforce or purporting to enforce the Uniform Code.

(b) The board may vary or modify a provision or requirement of the Uniform Code where the party seeking the variance or modification has shown by the weight of the evidence that in the particular case before the board strict compliance with the particular provision or requirement:

- (1) would create an excessive and unreasonable economic burden;
- (2) would not achieve the code's intended objective;
- (3) would inhibit achievement of some other important public policy;
- (4) would be physically or legally impracticable;
- (5) would be unnecessary in light of alternatives which ensure the achievement of the code's intended objective or in light of alternatives which, without a loss in the level of safety, achieve the code's intended objective more efficiently, effectively, or economically; or
- (6) would entail a change so slight as to produce a negligible additional benefit consonant with the purposes of the code.

(c) In cases before a regional board of review on appeal, the board may fashion suitable remedies so as to do justice among the parties, including but not limited to:

- (1) where an order or determination has been made, sustaining, reversing, or

modifying, in whole or in part, such order or determination; and

(2) where an order or determination has not been made within a reasonable time, making any such order or determination or directing that any orders, determinations, permits, or authorizations be issued.

### **Section 1205.5. Practice of Boards of Review**

(a) Any person aggrieved may petition the boards of review for relief under this Part. The petition shall consist of the application prescribed by the Department of State and all information provided by the petitioner in support of it. The petition shall be delivered to the Department of State, together with copies in such number as the department may require, and shall be accompanied by payment of the fee specified in this Part.

(b) The department shall serve or cause the petitioner to serve copies of the petition received upon such other parties and persons as the department may determine. The department shall also cause notice of the receipt of any petition to be published in the State Register together with a summary of the petition. A petition shall be deemed received only after the department has determined that the information contained within it is minimally sufficient to state matters within the jurisdiction of the regional boards of review. In addition to any information required by other law, such notice shall also state where the petition may be reviewed and that interested persons may request actual notice of any hearing proposed to be held on the petition.

(c) The department shall review the filed petition to determine that it is complete. To be complete the petition shall state the nature of the grievance and the relief sought in sufficient detail as would permit the board to make a determination on the basis of the information contained within the petition. Such detail shall include as appropriate architectural drawings, site plans, descriptions of buildings and their histories, and an explanation of the facts supporting the criteria upon which petitioner relies as a basis for relief. If complete, the department shall transmit the petition, and any materials responsive to the petition, to the appropriate board for a decision on the written record or for a decision after a hearing. If incomplete, the department shall notify the applicant of the information required for completeness. If, after notice that the petition is incomplete, no additional information is forthcoming and the file has remained inactive for a period exceeding 90 days, the department may dismiss the matter for neglect to proceed, but without prejudice to any subsequent petition.

(d) In determining to which board of review a particular petition shall be transmitted, the department shall consider the region wherein the petition arises, the convenience of parties or witnesses, and whether the buildings and/or activities which are the subject of the petition are also subject to the provisions of subdivision (d) of section 1201.2 of this Title. The department may upon the request of a party, upon the request of a member of a board, or upon its own initiative transfer a petition to another board. The department may effect such transfer to correct a mistake in the choice of the forum, to avoid conflicts of interest or the appearance of impropriety, for the convenience of parties or witnesses, or for other good cause shown.

(e) A hearing under this Part shall be at the discretion of the department and the board. If a hearing is to be held, the department shall provide notice thereof to the parties, such interested persons as the department shall have been able to determine, and any other persons who have requested the same. The board may regulate the course of the hearing and require the presentation of evidence in such manner and order as may be most beneficial to the board. To the extent not inconsistent with this regulation and to the extent it advances the purposes of this Part, practice



before the boards of review shall be guided by the Civil Practice Law and Rules.

(f) Whether or not a hearing is held and regardless of the form of the evidence and the manner of its presentation, the burden of proof shall be on the petitioner to show that he is entitled to any relief. The petitioner shall provide the board with facts which demonstrate the burden imposed by strict compliance and with facts as to the safety and propriety of any alternative to strict compliance.

(g) The board may state its decision in the record at any meeting of the board. The decision of the board shall be reduced to writing, subscribed to by the chairman, and shall set out the board's findings and conclusions and the relief granted, if any. Petitions shall be decided within 60 days of completeness unless a longer period is required for good cause shown. Copies of the written decision shall be provided to the parties within a reasonable time after the determination. A copy shall be provided to the Commissioner of the Division of Housing and Community Renewal and a copy shall be filed in and be available for public inspection and copying at the Department of State, which shall keep a record of all decisions properly indexed.

### **Section 1205.6. Routine cases**

(a) A routine case is one determined by the department to involve a de minimus variance or modification that does not substantially affect the code's provisions for health, safety and security.

(b) If the department determines to treat a case as a routine case under this section, it shall make the decision rather than a board of review, and shall consider the evidence offered, make findings of fact and conclusions of law, and render its decision in writing. Unless objected to by the petitioner or respondent in a writing received by the department, the decision shall become final after 15 days of receipt of the decision by the parties. A decision shall be filed, indexed, and distributed in the same manner as a decision of the boards of review. A decision timely objected to shall be without force and effect, and the matter to which it pertains shall be transmitted to a board of review for proceedings de novo in accordance with the preceding section.

### **Section 1205.7. Fees**

Applications for routine variances to the department shall be accompanied by a \$50 fee, and petitions to a regional board of review shall be accompanied by the following fees:

(a) Petitions related to construction, alteration, or renovation of residential or agricultural occupancies involving no more than one structure with no more than two dwelling units \$ 50

(b) Petitions related to construction, alteration, or renovation of other buildings and structures:

- |   |         |
|---|---------|
| (1) not more than 8,000 square feet.....                                  | \$100   |
| (2) more than 8,000 square feet but not more than 25,000 square feet..... | \$300   |
| (3) more than 25,000 square feet but not more than 50,000 square feet...  | \$500   |
| (4) more than 50,000 square feet.....                                     | \$1,000 |

(c) Petitions related to maintenance or use of buildings or materials and any petition not otherwise provided for above..... \$100.

## **Part 1208 Minimum Standards for Code Enforcement Training in New York State**

### **Section 1208-1.1. Introduction and purpose**

(a) Section 381 of the Executive Law authorizes the Secretary of State to promulgate rules and regulations prescribing minimum standards for administration and enforcement of the Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code). This Part includes that portion of the rules and regulations promulgated pursuant to [Section 381 of the Executive Law](#) that relates to:

- (1) qualifications of staff, including requirements for certification of such staff; and
- (2) minimum basic training and in-service training requirements for personnel charged with administration and enforcement of the Uniform Code and/or the Energy Code.

This Part shall apply to personnel who work for local governments, counties or State agencies that administer and enforce the Uniform Code and/or the Energy Code.

(b) Section 376-a of the Executive Law authorizes the Secretary of State to promulgate rules and regulations relating to training of personnel charged with enforcement of the Uniform Code and/or the Energy Code, including, but not limited to, rules and regulations relating to code enforcement training programs for such code enforcement personnel; the minimum courses of study, attendance requirements, and equipment and facilities required for such code enforcement training programs; the qualifications for instructors for such code enforcement training programs; requirements of minimum basic training which code enforcement personnel must complete in order to be eligible for continued employment or permanent appointment and the time within which such basic training must be completed; and requirements for in-service training programs and advanced in-service training programs for code enforcement personnel. This Part includes the rules and regulations promulgated by the Secretary of State pursuant to section 376a of the Executive Law.

### **Section 1208-1.2. Definitions**

In this Part, the following terms shall have the following meanings, unless a different meaning is clearly required by the context:

(a) **Adjunct instructor** means a person certified pursuant to this Part as qualified to teach or present one or more specified in-service training courses.

(b) **Building safety inspector** means a person who performs fire safety and property maintenance inspections on existing buildings.

(c) **Certified building safety inspector** means a person who has been certified pursuant to this Part to perform building safety inspector enforcement activities [as having successfully completed the applicable basic training program described in section 1208-3.2(b) of this Part] and whose certification has not been revoked or become inactive

(d) **Certified code enforcement official** means a person who has been certified pursuant to this Part to perform code enforcement official enforcement activities [as having successfully

completed the applicable basic training program described in section 1208-3.2(c) of this Part] and whose certification has not been revoked or become inactive.

(e) **Code enforcement official** means a person who performs any enforcement activity.

(f) **Department** means the Department of State.

(g) **Energy Code** means the New York State Energy Conservation Construction Code promulgated pursuant to Article 11 of the Energy Law.

(h) **Enforcement activity** means any activity related to administration and/or enforcement of the Uniform Code and/or the Energy Code, excluding purely ministerial acts (such as signing permits, certificates of occupancy, orders, appearance tickets, or similar documents in reliance on reviews, approvals and/or inspections performed by other persons) and secretarial and other clerical activities. Special Inspections as defined in the Uniform Code are not considered an enforcement activity. There are two levels of enforcement activities: building safety inspector and code enforcement official:

(1) Building safety inspector enforcement activities include:

(i) fire safety and/or property maintenance inspections of existing buildings and structures.

(2) Code enforcement official enforcement activities include:

(i) building safety inspector enforcement activities;

(ii) review and/or approval of plans incidental to the issuance of a permit for the construction or alteration of buildings and structures;

(iii) construction inspections performed during and/or upon completion of the construction or alteration of buildings and structures; and

(iv) any other enforcement activity that is not also a building safety inspector enforcement activity.

(i) **Instructor** means a person certified pursuant to this Part as qualified to teach or present training courses.

(j) **Local government** means a village, town (outside the area of any incorporated village) or city.

(k) **Online training course** means a training course in which at least one student is not physically present at the place of the course presentation, but participates at a remote location by viewing, hearing, and interacting with the course presentation by internet transmission, webinar, teleconference, or other similar means.

(l) **Part 426** means Part 426 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

(m) **Part 434** means the former Part 434 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

(n) **Person** means an individual.

(o) **Professional development electives** means training courses that are not included within the descriptions set forth in section 1208-3.3(a)(1), (2), and (3) of this Part, but whose subject matter advances the professional development of an individual code enforcement official or building safety inspector. Professional development electives include, but are not limited to, classes in the following topics: zoning, planning, ethics, management, communications, hazards, writing skills, time management, records management, media relations and other topics that contribute to the professional development of a code enforcement official or building safety inspector as determined by the Secretary.

(p) **Registry number** means a number assigned by the Secretary to a person who has been certified as a certified building safety inspector or as a certified code enforcement official.

(q) **Remote participant** means a student who participates in an online training course at a remote location.

(r) **Secretary** means the Secretary of State.

(s) **Standard instructor** means a person certified pursuant to this Part as qualified to teach or present one or more specified basic training courses.

(t) **Student** means a person who attends or participates in a training course. The term includes any person who attends a training course, without regard to whether such person is or is not employed as a building safety inspector or as a code enforcement official when he or she attends the training course, and without regard to amount of such person's experience (if any) as a building safety inspector or as a code enforcement official when he or she attends the training course.

(u) **Successfully complete** means:

(1) with respect to a basic training program:

(i) attend and participate (in person or, in the case of an online training course, remotely) in all class sessions in all basic training courses included in the basic training program; and

(ii) achieve a passing score on each examination; and

(2) with respect to any in-service training course or advanced in-service training course:

(i) attend and participate (in person or, in the case on an online training course, remotely) in all class sessions; and

(ii) achieve a passing score on each examination, if required.

(v) **Training course** means a course providing instruction in a topic specified in section 1208-3.2 or 1208-3.3 of this Part or in a statement issued by the Secretary pursuant to section 1208-3.4(b) of this Part. There are three types of training courses: basic training courses, in-service training courses, and advanced in-service training courses.

(w) **Training course provider** means the person or entity having overall responsibility for presenting a training course.

(x) **Uniform Code** means the New York State Uniform Fire Prevention and Building Code promulgated pursuant to Article 18 of the Executive Law.

### **Section 1208-2.1. Minimum training requirements for building safety inspectors and code enforcement officials**

(a) General. Except as otherwise provided in section 1208-2.2(b) of this Subpart, no person shall perform any enforcement activity unless such person satisfies the minimum training requirements applicable to such enforcement activity, as specified in this section. There are two levels of enforcement activities: building safety inspector and code enforcement official. If a person performs more than one level of enforcement activity, he or she must satisfy the minimum training requirements applicable to each level of enforcement activity he or she performs.

(b) Building safety inspector. To satisfy the minimum training requirements for a person who performs building safety inspector enforcement activities, a person must be certified as a building safety inspector pursuant to section 1208-3.1[or], section 1208-5.4, or section 1208-5.5 of this Part, and must maintain such certification in the manner specified in section 1208-3.1 of this Part.

(c) Code enforcement official. To satisfy the minimum training requirements for a person who performs code enforcement official enforcement activities, a person must be certified as a code enforcement official pursuant to section 1208-3.1[or], section 1208-5.4, or section 1208-5.5 of this Part, and must maintain such certification in the manner specified in section 1208-3.1 of this Part.

(d) More stringent training requirements. This section specifies minimum training requirements for persons who perform enforcement activities. Nothing in this section shall be construed as preventing any local government, county or State agency from imposing more stringent training requirements for its building safety inspectors or code enforcement officials.

### **Section 1208-2.2. Minimum standards for local governments, counties and State agencies**

(a) General. Building safety inspectors and code enforcement officials designated by local governments, counties or State agencies for administration and enforcement of the Uniform Code, Energy Code, or portions thereof, shall be certified pursuant to section 1208-3.1[or], 1208-5.4, or 1208-5.5 of this Part. A local government, county or State agency responsible for administration and enforcement of the Uniform Code and/or the Energy Code shall provide the opportunity for training and certification for the designated building safety inspector and/or code enforcement official pursuant to this Part.

(b) Exceptions. Notwithstanding the provisions of section 1208-2.1 of this Subpart and subdivision (a) of this section:

(1) A person who has [commenced, but not completed, the] successfully completed at least one-third of the required building safety inspector basic training program described in section 1208-3.2(b) of this Part may, during such person's basic training period (as that term is defined in paragraph (3) of this subdivision), perform building safety inspector enforcement activities on behalf of the local government, county, or State agency by which such person is employed, provided that:

(i) such local government, county, or State agency designates such person to perform building safety inspector enforcement activities on behalf of such local government, county, or State agency; and

(ii) such person is progressing toward completion of the building safety inspector basic training program at a rate which, in the judgment of the local government, county, or State agency by which such person is employed, will assure that such person will complete such program within such person's basic training period. If such person fails to complete the building safety inspector basic training program within [his or her] their basic training period, [he or she] they shall not be permitted to perform any building safety inspector enforcement activities until and unless [he or she does successfully complete such program] an extension is granted pursuant to section 1208-3.2(d) of this Part.

(2) A person who has [commenced, but not completed, the] successfully completed at least one-sixth of the required code enforcement official basic training program described in section 1208-3.2(c) of this Part may, during [the] such person's basic training period (as that term is defined in paragraph (3) of this subdivision), perform building safety inspector enforcement activities on behalf of the local government, county, or State agency by which such person is employed; and a person who has completed at least two-thirds of the required code enforcement official basic training program described in section 1208-3.2(c) of this Part may, during the such person's basic training period (as that term is defined in paragraph (3) of this subdivision), perform code enforcement official enforcement activities on behalf of the local government, county, or State agency by which such person is employed, provided that:

(i) such local government, county, or State agency designates such person to perform code enforcement official enforcement activities on behalf of such local government, county, or State agency; and

(ii) such person is progressing toward completion of the code enforcement official basic training program at a rate which, in the judgment of the local government, county, or State agency by which such person is employed, will assure that such person will complete such program within such person's basic training period. If such person fails to complete the code enforcement official basic training program within [his or her] their basic training period, [he or she] they shall not be permitted to perform any code enforcement official enforcement activities or building safety inspector enforcement activities until and unless [he or she does successfully complete such program] an extension is granted pursuant to section 1208-3.2(d) of this Part.

(3) For the purposes of paragraphs (1) and (2) of this subdivision, the term basic training period shall mean the period within which a person must complete a basic training course, as determined in accordance with section 1208-3.2(d) of this Part.

(4) If any local government or county establishes and maintains standards of code enforcement training which, in the opinion of the Secretary, are equal to or higher than those established by this Part, the Secretary may exempt building safety inspectors and/or code enforcement officials employed by such local government or county from satisfaction of the training requirements established by this Part, provided that such

building safety inspectors and/or code enforcement officials satisfy the basic training requirements and continuing training requirements established by such local government or county. Any such exemption shall be in writing, signed by the Secretary or the Secretary's designee, and shall be subject to such terms and conditions as the Secretary may prescribe. Any such exemption may be revoked by the Secretary, in whole or in part, if, in the opinion of the Secretary, the standards of code enforcement training established and maintained by such local government or county are or become lower than those established by this Part.

(c) Other requirements. Nothing in this section shall be construed as negating or limiting the applicability of any other law, statute, rule, regulation or ordinance imposing any residency requirement or other requirement or limitation on the hiring of building safety inspectors and/or code enforcement officials.

(d) Other minimum standards. This section specifies only those minimum standards that relate to training of building safety inspectors and code enforcement officials. Nothing in this section shall be construed as limiting the applicability of any minimum standard set forth in Part 1201, Part 1202, Part 1203 and/or Part 1204 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

### **Section 1208-3.1. Certification of building safety inspectors and code enforcement officials**

(a) Certified building safety inspector. A person who successfully completes the building safety inspector basic training program described in section 1208-3.2(b) of this Subpart within the time required by subdivision (d) of that section shall be certified as a building safety inspector. To maintain such certification, such person must satisfy the building safety inspector in-service training requirements described in section 1208-3.3(b) of this Subpart and any and all advanced in-service training requirements made applicable pursuant to section 1208-3.4 of this Subpart.

(b) Certified code enforcement official. A person who successfully completes the code enforcement official basic training program described in section 1208-3.2(c) of this Subpart within the time required by subdivision (d) of that section shall be certified as a code enforcement official. To maintain such certification, such person must satisfy the code enforcement official in-service training requirements described in section 1208-3.3(c) of this Subpart and any and all advanced in-service training requirements made applicable pursuant to section 1208-3.4 of this Subpart.

(c) Increase in level of certification. A certified building safety inspector may change his or her certification to certified code enforcement official by:

(1) notifying the Department in writing that he or she intends to change his or her level of certification to certified code enforcement official;

(2) completing the additional basic training courses required for certification as a code enforcement official within such time period as shall be prescribed by the Secretary (provided, however, that if the certified building safety inspector previously held certification as a code enforcement official, he or she will not be required to take such additional basic training courses if he or she takes an examination in each such additional basic training course and achieves a passing grade on each such examination). A change in level of certification shall be effective when the Secretary issues a certificate confirming such change. A certified building safety inspector

who changes his or her level of certification to certified code enforcement official must thereafter maintain such certification by satisfying the in-service training requirements and advanced in-service training requirements applicable to a certified code enforcement official.

(d) Decrease in level of certification. A certified code enforcement official may change his or her certification to building safety inspector by notifying the Department that he or she elects to decrease the level of his or her certification. Such notification shall be in writing and shall include the certified code enforcement official's agreement that when the decrease in level of certification becomes effective, he or she will not perform any enforcement activities other than those defined as building safety inspector enforcement activities. Once the notification is received by the Department, the status of the individual's certification as a code enforcement official shall be inactive. A certified code enforcement official who changes his or her certification to certified building safety inspector must thereafter maintain such certification by satisfying the in-service training requirements and advanced in-service training requirements required for certified building safety inspectors.

### **Section 1208-3.2. Basic training programs**

(a) General. Except as otherwise provided in section 1208-5.4 and section 1208-5.5 of this Part, to obtain certification as a certified building safety inspector or as a certified code enforcement official, a person must complete the applicable basic training program described in subdivision (b) or (c) of this section within the time required by subdivision (d) of this section. Only basic training courses which are:

(1) developed and presented by the department; or

(2) approved and certified by the secretary pursuant to this Part and taught or presented by instructors approved and certified by the secretary pursuant to this Part, shall count toward completion of a basic training program. The department may from time to time designate any basic training course(s) as prerequisite(s) for any other basic training course(s), and if the department makes any such designation, a student will not be permitted to take a basic training course unless such student shall have satisfied all prerequisite requirements applicable to such basic training course.

(b) Building safety inspector basic training program. The building safety inspector basic training program includes at least 60 hours of training in the following topics:

Training program overview (1 hour) Historic role of codes (3 hours)  
New York State regulations (3 hours)  
Role of New York State in code enforcement practices (1.5 hours)  
Role of local government in code enforcement practices (2 hours)  
Legal issues (1.5 hours)  
Communication and the building safety inspector (1 hour)  
Role of the media (1 hour)  
Record keeping (1 hour)  
The court system (1 hour)  
Liability issues (1 hour)  
Operational permits (1 hour)  
Review of the code books (2 hours)  
Property and occupancy classification (3 hours)



- Type of construction (1 hour)
- Building area (1 hour)
- Fire Code administrative issues (1 hour)
- Fire Code fire safety issues (1.5 hours)
- Emergency planning and the role of the BSI and CEO in providing post disaster assistance (2 hours)
- Fire service issues (1.5 hours)
- Existing building systems (1.5 hours)
- Existing fire-rated construction (2 hours)
- Existing interior finishes (1 hour)
- Existing fire protection systems (4 hours)
- Existing means of egress (2 hours)
- Fire safety during construction (1 hour)
- Occupancy specific issues (2 hours)
- Tents and membrane structures (1 hour)
- Hazardous materials (2 hours)
- Reference standards (4 hours)
- Property maintenance code (3 hours)
- Exam (4 hours)

(c) Code enforcement official basic training program. The code enforcement official basic training program includes not less than a total of 120 hours of training, including the 60-hour building safety inspector basic training program described in subdivision (b) of this section and at least an additional 60 hours of training in the following topics:

Residential construction:

- Building planning (2 hours)
- Energy (2 hours)
- Foundation and footings (2 hours)
- Floor assembly (2 hours)
- Wall assembly (2 hours)
- Roof assembly (1 hour)
- Chimney assembly (1.5 hours)
- Mechanical issues (1.5 hours)
- Fuel gas issues (1 hour)
- Plumbing issues (1.5 hours)
- Electrical issues (2 hours)
- Plan review (5 hours)
- Swimming pools (1.5 hours)
- Existing residential construction (2.5 hours)
- Exam (2.5 hours)

Commercial construction:

- Energy (2 hours)
- Mechanical issues (1 hour)
- Fuel gas issues (1 hour)
- Plumbing issues (1.5 hours)
- Design loads (1.5 hours)
- Structural requirements and documentation (2 hours)
- Foundation systems (1.5 hours)
- Building materials (1.5 hours)

Wood framing (1.5 hours)  
Plan review (4 hours)  
Occupancy and construction area (1.5 hours)  
Mixed uses (1.5 hours)  
Fire-rated construction (2 hours)  
Egress (1.5 hours)  
Structural issues (1.5 hours)  
Fire protection issues (2 hours)  
Exam (2.5 hours)

(d) Time within which basic training program must be completed.

(1) For building safety inspectors, a person must complete the entire basic training program applicable to building safety inspectors within six months of the date on which such person attended the first training course included in that basic training program. However, a person who is or who becomes employed as a building safety inspector by a local government, county, or State agency must complete that basic training program within six months from the date of appointment.

(2) For code enforcement officials, a person must complete the entire basic training program applicable to code enforcement officials within 12 months of the date on which such person attended the first training course included in that basic training program. However, a person who is or who becomes employed as a code enforcement official by a local government, county, or State agency must complete that basic training program within 12 months from the date of appointment. Failure to complete a basic training program within the time period established in this subdivision shall result in the forfeiture of any and all accrued basic code enforcement training credit. The time period established in this subdivision for the completion of a basic training program may be extended by the secretary for good cause shown. An application for such an extension shall set forth the reason(s) supporting such a grant of an extension, or extensions may be granted at the discretion of the secretary or the secretary's designee. Any such extension shall be in writing, signed by the secretary or the secretary's designee, and shall be subject to such terms and conditions as the secretary may prescribe.

(e) Waiver of specific basic training courses. Upon application made by a person participating in a basic training program, the Secretary may waive the requirement that such person take any one or more of the basic training courses included in such basic training program, provided that such person submits proof of having successfully completed a fire or code enforcement training course which, in the opinion of the Secretary, is equivalent to the basic training course for which waiver is requested, and which is a course offered by an accredited college, university, professional society, or by the International Code Council, or other state or nationally recognized organization. Upon preliminary approval of an application for waiver, the applicant will be required to take an examination in the basic training course for which waiver is requested. Failure to achieve a passing score on such examination will result in the denial of the waiver.

(f) For the purposes of this section, a student who obtains a waiver of the requirement that he or she take a particular course included in a basic training program pursuant to subdivision (e) of this section shall be deemed to have attended and participated in such course and to have achieved a passing score on the examination in such course.

(g) A student will be permitted to retake an examination only if the Secretary grants such permission for good cause shown.

### **Section 1208-3.3. In-service training requirements**

(a) General. To maintain certification, a certified building safety inspector or a certified code enforcement official must satisfy the applicable in-service training requirements set forth in this section. In-service training courses shall count towards satisfaction of the in-service training requirement if they are:

- (1) developed and presented by the Department; or
- (2) approved and certified by the Secretary pursuant to this Part and taught or presented by instructors or adjunct instructors approved and certified by the Secretary pursuant to this Part; or
- (3) approved and certified by the Secretary pursuant to this Part as an online training course; or
- (4) accepted by the Secretary pursuant to this Part as a professional development elective; or
- (5) accepted as professional certification by the International Code Council or another nationally recognized organization in any of the following categories: "Code enforcement," "Energy," "Fire," "Green building," "Commercial, residential or special inspector," or "Plans examiner," or similar category as determined by the Secretary. Certification in each category shall be deemed to be the successful completion of eight hours of inservice training for each professional certification received for the calendar year in which such professional certification was obtained.

(b) Building safety inspector in-service training requirement. To maintain certification, a certified building safety inspector must successfully complete a minimum of six hours of inservice training each calendar year following the calendar year in which he or she received certification as a certified building safety inspector. The in-service training required during each calendar year shall include at least three hours of in-service training in training courses that are included within the descriptions set forth in subdivision (a)(1), (2), and (3) of this section and address subjects included in the main topic area of code enforcement and administration:

- (1) Code enforcement and administration - including changes in law, advancements in construction techniques, or detection and remediation of common violations of the uniform code and/or energy code (suggested sub-topics include, but are not limited to):
  - (i) code enforcement practices and organization (suggested sub-topics include, but are not limited to: inspection techniques; building system technology; legal issues affecting the building safety inspector; and the building safety inspector and diplomacy);
  - (ii) public policy considerations affecting building construction and maintenance (suggested sub-topics include, but are not limited to: historic preservation;

handicap accessibility issues; energy conservation; temporary structures; fire inspections and fire protection features; review of the reference standards; and means of egress issues);

(iii) occupancy classification and hazard recognition (suggested sub-topics include, but are not limited to: occupancy classification; fire safety issues; hazardous materials storage; solid fuel-burning equipment; and unvented heaters); and

(iv) code interpretations and application (suggested sub-topics include, but are not limited to: Uniform Code update; legal interpretations, and technical bulletins).

(c) Code enforcement official in-service training requirement. To maintain certification, a certified code enforcement official must successfully complete a minimum of 24 hours of inservice training each calendar year following the calendar year in which he or she received certification as a certified code enforcement official. The in- service training required during each calendar year shall include at least twelve hours of in-service training in training courses that are included within the description set forth in subdivision (a)(1), (2), and (3) of this section. A minimum of three hours in the main topic area described in subdivision (b) of this section ("code enforcement and administration"), and at least three hours of training in each of the following additional main topic areas:

(1) Uniform Fire Prevention and Building Code (suggested sub-topics include, but are not limited to):

(i) Building systems (suggested sub-topics include, but are not limited to: HVAC; plumbing; electrical; and fuel gas);

(ii) Fire protection issues (suggested sub-topics include smoke detection/carbon monoxide detectors; fire sprinkler systems; kitchen hood systems; standpipe systems; smoke control systems; and fire apparatus access);

(iii) Construction and structural issues (suggested sub-topics include, but are not limited to: construction techniques; construction materials; design issues; and new technology in commercial construction);

(iv) Plan review and building specification (suggested sub-topics include, but are not limited to: plan review administration and plan review techniques);

(2) Energy Conservation Construction Code (suggested sub-topics include, but are not limited to: building science, thermal envelope, mechanical systems, lighting systems, and compliance methods).

(d) In addition to satisfying the required minimum number of In-service training hours in the topic areas specified in subdivisions (b) and (c) of this section, the remaining training hours may be completed through professional development electives as provided in subdivision (a)(4) of this section or by obtaining a professional certification as provided in subdivision (a)(5) of this section.

(1) Code enforcement officials or building safety inspectors receiving annual in-service training from a professional development elective as provided in subdivision (a)(4) of this section, or by obtaining a professional certification as provided in subdivision (a)(5) of this section, either in whole or in part, shall submit to the

Department a professional development elective record form, as prescribed by the Department, which shall state the training hours earned for the calendar year and any additional information as required by the Department. Individuals receiving in-service training credit for a professional development elective shall at the request of the Department provide documentation sufficient to confirm completion of such training course. Failure to submit adequate documentation shall result in a forfeit of the in-service training credit obtained for such training course and will result in a review to determine whether an individual's certification should be designated as inactive or be revoked.

(2) Each code enforcement official or building safety inspector who receives annual in-service training credit by attending a professional development elective or by obtaining a professional certification shall maintain, or ensure access by the Department to, a record of completed in-service training which includes: title of the course, detailed description of the course, the number of contact hours completed, a certificate of completion issued by the sponsor, the sponsor's name, attendance verification, and the date and location of the course. Such records shall be retained by the building safety inspector or code enforcement official for at least three years from the date of completion and shall be available for review by the Department.

(3) Code enforcement officials or building safety inspectors receiving all of their annual in-service training by attending and completing training courses that are included within the descriptions set forth in subdivision (a)(1), (2), and (3) of this section shall not be required to maintain documentation regarding such In-service training.

(e) A review board shall be appointed by the Secretary for the purpose of assisting the Department on matters pertaining to professional development electives such as recommending elective courses that should be approved, recommending approved elective categories, recommending action on appeals in regards to electives, recommending revocations as a result of inadequate documentation of completion of professional development electives and other duties as determined by the Secretary. The board shall be composed of not less than three code enforcement officials and two building safety inspectors.

#### **Section 1208-3.4. Advanced in-service training requirements**

(a) To maintain certification, a certified building safety inspector or a certified code enforcement official must successfully complete all advanced in-service training requirements made applicable to his or her category of certification pursuant to this section, within the time established pursuant to this section. Only advanced in-service training courses which are:

(1) developed and presented by the Department; or

(2) approved and certified by the Secretary pursuant to this Part and taught or presented by instructors or adjunct instructors approved and certified by the Secretary pursuant to this Part, shall satisfy an advanced in-service training requirement.

(b) The Secretary may from time to time require a certified building safety inspector or a certified code enforcement official to receive advanced in-service training, not to exceed 24 hours annually, relating to amendments, revisions, or additions to the Uniform Code and/or the Energy Code; other changes in law; development in construction technologies or techniques; or other

matters which, in the opinion of the Secretary, warrant specific training. When such advanced in-service training is to be required, the Secretary shall issue a statement indicating that advanced in-service training is required and specifying for building safety inspector certification or code enforcement official certification:

- (1) the topic areas in which advanced in-service training is required;
- (2) the minimum number of hours of training; and
- (3) the time within which such advanced in-service training must be completed. Any statement issued by the Secretary pursuant to this subdivision shall be posted on the Department's website.

(c) Unless otherwise specified in the statement issued by the Secretary pursuant to subdivision (b) of this section, each hour of advanced in-service training successfully completed by a certified building safety inspector or a certified code enforcement official shall count toward satisfaction of his or her in-service training requirement for the calendar year in which such advanced in-service training is received.

### **Section 1208-3.5. Inactive status of certification of building safety inspectors and code enforcement officials**

(a) Inactive certification status for failure to satisfy in-service training requirement or advanced in-service training requirement. The Secretary shall designate a certified building safety inspector's certification or a certified code enforcement official's certification as inactive, if such person fails to satisfy the applicable in-service training requirement specified in section 1208-3.3 of this Subpart during any calendar year or if such person fails to satisfy any applicable advanced in-service training requirement within the time specified in the statement issued by the Secretary pursuant to section 1208-3.4(b) of this Subpart.

(1) Adjustments and/or conditions to in-service training requirement or advanced in-service training requirement. The Secretary may grant an adjustment and/or conditions to an in-service training requirement specified in section 1208-3.3 of this Subpart or to an advanced in-service training requirement declared pursuant to section 1208-3.4 of this Subpart provided that the certified building safety inspector or certified code enforcement official documents his or her request for adjustment and/or conditions with a showing of good cause and in the judgment of the Secretary the certified building safety inspector or certified code enforcement official would be unable to comply with the in-service training requirement or advanced in-service training requirement in a timely manner. Adjustment to an in-service training requirement or to an advanced in-service training requirement may be granted for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the Secretary.

(b) Revocations based on failure to complete training requirement properly.

(1) The secretary may revoke a certified building safety inspector's certification or a certified code enforcement official's certification if the secretary determines, after notice and an opportunity to be heard, that such certified building safety inspector or certified code enforcement official:

(i) did not actually attend and participate (in person or, in the case of an online training course, remotely) in any class session in any required basic training course, in-service training course, or advanced in-service training course; or

(ii) achieved a passing grade on the examination in any required basic training course, in-service training course, or advanced in-service training course by fraudulent or dishonest means.

(2) The provisions of this section are in addition to, and not in substitution for or limitation of, the provisions of Subpart 1208-6.

(c) Change in status for individuals with inactive certification status of less than three consecutive years. To be reclassified with active certification as a building safety inspector or as a code enforcement official following an inactive certification status pursuant to subdivision (a) of this section for a period of less than three years, a person must complete the in-service training requirements described in section 1208-3.3(b) or (c) of this Subpart, as applicable, for the current calendar year.

(d) Change in status for individuals with an inactive certification status for three or more consecutive years. To be reclassified with active certification as a building safety inspector or as a code enforcement official following an inactive certification status pursuant to subdivision (a) of this section for a period of three or more consecutive years, a person must repeat, and successfully complete, the applicable basic training program described in section 1208-3.2 of this Subpart within the time period determined pursuant to [subdivision (d) of that] section 1208-3.2(d) of this Subpart. [For the purposes of section 1208-3.2(d) of this Subpart, the applicant will have 18 months from the date the application is received by the department to complete the training.] The requirement that the basic training program be repeated may be waived, at the discretion of the secretary, if the person seeking re-certification takes an examination for each basic training course for the desired category of certification and achieves a passing score on each such examination.

(e) Re-certification after revocation. To be re-certified as a certified building safety inspector or as a certified code enforcement official following revocation of certification pursuant to subdivision (b) of this section, a person must repeat, and successfully complete, the applicable basic training program described in section 1208-3.2 of this Subpart within the time period determined pursuant to [subdivision (d) of that] section 1208-3.2(d) of this Subpart. [For the purposes of subdivision (d) of that section, the applicant will have 18 months from the date the application is received by the department to complete the training.] The procedures outlined in section 1208-5.5 of this Part may not be utilized to obtain re-certification after revocation. The requirement that the basic training program be repeated may be waived, at the discretion of the secretary, if the person seeking re-certification takes an examination for each basic training course for the desired category of certification and achieves a passing score on each such examination.

(f) An individual whose certification has been classified as inactive or revoked pursuant to this section shall not be permitted to perform any building safety inspector enforcement activities or any code enforcement official enforcement activities until and unless such individual has satisfied the reclassification or recertification requirements of this section. Pursuant to Executive Law section 376-a(2)(j), nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any applicant or current or former employee under any other law or regulation or under any collective bargaining agreement or employment contract.

## **Section 1208-5.1. Applications**

An application made under any provision of this Part for approval, certification, waiver, exemption or extension shall be in writing, shall be submitted to the Department on a form provided by or otherwise acceptable to the Department, and shall include or be accompanied by information and documentation establishing to the satisfaction of the Secretary that the applicant satisfies the respective criteria applicable to the type of application submitted.

## **Section 1208-5.2. List of certified building safety inspectors and certified code enforcement officials**

The Department shall maintain a list of certified building safety inspectors and certified code enforcement officials, and may post such list on the Department's website. Such list may include the name of each certified building safety inspector and certified code enforcement official, his or her level of certification, and, if applicable, the local government, county, or state agency that employs such certified building safety inspector or certified code enforcement official, together with such other information as the Department may determine to be relevant. The Secretary may omit from such website list any certified building safety inspector or certified code enforcement official who has failed to maintain his or her certification in the manner specified in this Part, or whose certification has been designated as inactive or has been revoked.

## **Section 1208-5.3. Effective date**

This Part shall take effect on January 1, 2015. Thereafter, the provisions of this Part shall supersede any and all inconsistent provisions of Part 426 of this Title.

### **1208-5.5 Nationally Recognized Certification Alternatives.**

#### **(a) Nationally Recognized Certification Alternatives to Building Safety Inspector Basic Training.**

##### **(1) A person may be certified as a certified building safety inspector if they:**

(i) possess a current nationally recognized certification approved by the secretary, or their designee, as an equivalent to the basic training program included in section 1208-3.2(b) of this Part; and

(ii) have successfully taken and passed the New York State Code Enforcement Principles and Practice Exam as identified in subdivision (c) of this section.

(2) To maintain certification granted pursuant to this subdivision, the person receiving such certification must satisfy the building safety inspector in-service training requirements described in section 1208-3.3(b) of this Part for each calendar year, starting with the calendar year following the initial approval and continuing every calendar year thereafter, and any and all building safety inspector advanced in-service training requirements made applicable pursuant to section 1208-3.4 of this Part. Maintenance of the approved alternative nationally recognized certification shall not be required for continued certification as a building safety inspector.

(3) The department shall maintain a list of approved nationally recognized



certifications which may be amended from time to time as deemed necessary by the secretary or their designee, and any conditions on such approved certifications that may be imposed by the secretary or their designee shall be noted on such list.

(b) Nationally Recognized Certification Alternatives to Code Enforcement Official Basic Training.

(1) A person may be certified as a certified code enforcement official if they:

(i) possess a current nationally recognized certification approved by the secretary, or their designee, as an equivalent to the basic training program included in section 1208-3.2(c) of this Part; and

(ii) have successfully taken and passed the New York State Code Enforcement Principles and Practice Exam as identified in subdivision (c) of this section.

(2) To maintain certification granted pursuant to this subdivision, the person receiving such certification must satisfy the code enforcement official in-service training requirements described in section 1208-3.3(c) of this Part for each calendar year, starting with the calendar year following the initial approval and continuing every calendar year thereafter, and any and all code enforcement official advanced in-service training requirements made applicable pursuant to section 1208-3.4 of this Part. Maintenance of the approved alternative nationally recognized certification shall not be required for continued certification as a code enforcement official.

(3) The department shall maintain a list of approved nationally recognized certifications which may be amended from time to time as deemed necessary by the secretary or their designee, and any conditions on such approved certifications that may be imposed by the secretary or their designee shall be noted on such list.

(c) New York State Code Enforcement Principles and Practice Exam.

(1) Any person seeking to obtain certification as a building safety inspector or a code enforcement official pursuant to this section shall be required to take and pass a New York State Code Enforcement Principles and Practice Exam. Said exam shall be developed by the department and include New York specific administrative, technical, and legal topics.

(2) Applications for the New York State Code Enforcement Principles and Practice Exam shall be in accordance with section 1208-5.1 of this Subpart. Upon receipt of an application and following the department's approval of the application, the person shall be permitted to take the exam. Upon achievement of a passing score on the exam, the department shall issue a certificate of completion for the exam, and such individual shall be certified in accordance with section 1208-3.1(a) or (b) of this Part, as appropriate.

(d) Except where otherwise specifically provided in this Part, any person seeking to obtain certification as a building safety inspector or a code enforcement official pursuant to this section shall not be permitted to perform any enforcement activity until and unless they have obtained their certification from the department.

## **SUBPART 1208-6. SUSPENSION OR REVOCATION OF CERTIFICATIONS**

### **1208-6.1 Introduction, purpose, and definition.**

(a) Introduction and purpose. Section 376-a of the Executive Law was amended by Chapter 468 of the Laws of 2017. The amendments included the addition of new provisions that authorize the Secretary to promulgate rules and regulations with respect to the revocation or suspension of the certification of any code enforcement personnel found after a hearing to have “materially failed to uphold duties of a code enforcement officer, including but not limited to, making material errors or omissions on an inspection report.” This Subpart implements those new provisions.

(b) Definition. In this Subpart, the term “authority having jurisdiction” shall mean any city, town, village, county, State agency, or other governmental unit or agency charged with or otherwise accountable or responsible for administration and enforcement of the Uniform Code and/or Energy Code.

### **1208-6.2 Suspension or revocation.**

(a) General. The secretary may suspend or revoke the certification of a building safety inspector or code enforcement official if the administrative law judge conducting a hearing pursuant to section 1208-6.5 of this Subpart finds, after such hearing, that such building safety inspector or code enforcement official has materially failed to uphold his or her code enforcement duties.

(b) Material failure to uphold code enforcement duties – building safety inspector. For the purposes of this Subpart, a building safety inspector shall be deemed to have materially failed to uphold his or her code enforcement duties if he or she:

(1) fails to note one or more serious violations of the Uniform Code on an inspection report relating to a fire safety and/or property maintenance inspection, provided that such violations are of a type that should have been observed by a certified building safety inspector exercising reasonable care in the performance of the inspection;

(2) makes any other material error or omission on an inspection report relating to a fire safety and/or property maintenance inspection, provided that such error or omission is of a type that should not have been made by a certified building safety inspector exercising reasonable care in the performance of the inspection;

(3) demonstrates, by act or omission, willful misconduct, gross negligence, or gross incompetence in the performance of his or her code enforcement activities;

(4) performs any code enforcement activity other than fire safety and/or property maintenance inspections of existing buildings; or

(5) performs any code enforcement activity at a time when his or her certification is inactive or suspended. For the purposes of paragraphs (1) and (2) of this subdivision, the term “certified building safety inspector” shall have the meaning ascribed to that term by section 1208-1.2(c) of this Part.

(c) Material failure to uphold code enforcement duties – code enforcement official. For the purposes of this Subpart, a code enforcement official shall be deemed to have materially failed to uphold his or her code enforcement duties if he or she:

(1) fails to note one or more serious violations of the Uniform Code and/or Energy Code on an inspection report relating to any type of inspection, provided that such serious

violations are of a type that should have been observed by a certified code enforcement official exercising reasonable care in the performance of the inspection;

(2) makes any other material error or omission on an inspection report relating to any type of inspection, provided that such error or omission is of a type that should not have been made by a certified code enforcement official exercising reasonable care in the performance of the inspection;

(3) demonstrates, by act or omission, willful misconduct, gross negligence, or gross incompetence in the performance of his or her code enforcement activities; or

(4) performs any code enforcement activity at a time when his or her certification is inactive or suspended. For the purposes of paragraphs (1) and (2) of this subdivision, the term "certified code enforcement official" shall have the meaning ascribed to that term by section 1208-1.2(d) of this Part.

(d) Matters not constituting a material failure to uphold code enforcement duties. For the purposes of this Subpart, personnel-related matters such as tardiness, absenteeism, insubordination, rude behavior, and the like shall not be deemed to be a material failure to uphold code enforcement duties.

(e) Effect of suspension or revocation. Notwithstanding the nature of certification pursuant to this Part as an indication of satisfactory completion of specified training requirements, and without regard to the amount of training actually completed by a person whose certification has been suspended or revoked pursuant to this Subpart:

(1) the suspension of such person's certification pursuant to this Subpart shall result in such person being deemed not to be certified during the period of such suspension;

(2) the revocation of such person's certification pursuant to this Subpart shall result in such person being deemed not to be certified at any time on or after the date of such revocation;

(3) such suspension or revocation shall not be shortened or terminated by reason of such person taking or re- taking any basic training, in-service training, advanced in-service training, or other training (provided, however, that if a suspension of a certification is made subject to the condition that the person to whom the certification was issued receive specified training during the period of the suspension, and if such suspension further provides that the period of the suspension will end upon completion of such training, such provisions in such suspension shall be given effect); and

(4) except as may otherwise be provided in the order suspending or revoking such certification, such person shall not receive any new or additional certification, whether as a building safety inspector or a code enforcement official, and such person shall not be permitted to increase or decrease the level of his or her certification pursuant to subdivision (c) or subdivision (d) of section 1208-3.1 of this Part, at any time during the period of such suspension or at any time after such revocation.

### **1208-6.3 Complaints.**

(a) General. A complaint alleging that a building safety inspector or code enforcement official has materially failed to uphold his or her code enforcement duties may be submitted to the department. Any such complaint must:

(1) be in writing on a form provided by or otherwise acceptable to the department;

(2) identify the building safety inspector or code enforcement official who is alleged to have materially failed to uphold his or her duties (such a building safety inspector or

- code enforcement official being hereinafter referred to as the “subject person”);
- (3) identify the authority having jurisdiction that employs or otherwise uses the services of the subject person;
- (4) include a statement of the acts or omissions of the subject person that are alleged by the complainant to constitute a material failure to uphold the subject person’s code enforcement duties;
- (5) include the complainant’s agreement to cooperate with any investigation conducted by the department and/or by any authority having jurisdiction;
- (6) include the complainant’s name, address, and contact information; and
- (7) be signed by the complainant.

(b) Review. The department will review the complaint to determine if the complaint states, on its face, an allegation that the subject person has materially failed to uphold his or her code enforcement duties. The department shall be permitted, but not required, to contact the complainant to request additional information or documentation related to the complaint.

(c) Preliminary determination. If the department determines that the complaint, on its face, does not state an allegation that the subject person has materially failed to uphold his or her code enforcement duties, the department will notify the complainant of that determination, and the department will take no further action with respect to the complaint. If the department determines that the complaint, on its face, does state an allegation that the subject person has materially failed to uphold his or her code enforcement duties, the department shall investigate the complaint and/or refer the complaint to the appropriate authority having jurisdiction, as provided in section 1208-6.4 of this Part.

(d) Providing copies of complaint. Without regard to the determination made by the department pursuant to subdivision (c) of this section, the department shall be permitted, but not required, to submit a copy of such complaint and any supporting information and documentation provided to the department by the complainant to each authority having jurisdiction that employs or otherwise uses the services of the subject person. In addition, if the complaint relates to an inspection performed pursuant to section 807-a of the Education Law, the department shall be permitted, but not required, to submit a copy of such complaint and any supporting information and documentation provided to the department by the complainant to the school authorities in charge of the subject school and to the New York State Department of Education. To the extent required by the Personal Privacy Protection Law (Article 6-A of the Public Officers Law), the department shall redact the complainant’s name, address, and contact information, and any other “personal information” (as that term is defined in Public Officers Law section 92(7)), from copies submitted to an authority having jurisdiction or to any other person or entity pursuant this subdivision.

(e) Actions taken without a complaint. This section shall not be construed as requiring the department to receive a formal complaint under this section before the department is authorized to conduct an investigation; to refer a matter to an authority having jurisdiction for investigation; to conduct a hearing; and otherwise to take steps to suspend or revoke the certification of a building safety inspector or code enforcement official who may have materially failed to uphold his or her code enforcement duties.

#### **1208-6.4 Investigations.**

(a) Investigation of complaints.

- (1) If the department determines that a complaint submitted pursuant to section 1208-

6.3 of this Subpart states, on its face, an allegation that the subject person has materially failed to uphold his or her code enforcement duties, the department shall:

- (i) investigate such complaint in such manner as the department deems appropriate, and/or
- (ii) refer such complaint to the authority having jurisdiction that employs or otherwise uses the services of the subject person; require such authority having jurisdiction to investigate the complaint and to submit a written report of such investigation to the department; and provide such authority having jurisdiction with instructions regarding the conduct of such investigation and the submission of such report.

(2) The complainant, the subject person named in the complaint, and each authority having jurisdiction that employs or otherwise uses the services of the subject person shall cooperate fully with any investigation conducted pursuant to this subdivision.

(3) Upon completion of an investigation conducted by the department and/or by an authority having jurisdiction pursuant to this subdivision, the department shall determine whether the matter should be referred to the Office of Administrative Hearings pursuant to section 1208-6.5 of this Subpart or discontinued, with or without prejudice. The department shall notify the complainant, the subject person named in the complaint, and each authority having jurisdiction that employs or otherwise uses the services of such subject person of the department's determination.

(b) Investigation of information obtained without a complaint.

(1) If information indicating that a building safety inspector or code enforcement official may have materially failed to uphold his or her code enforcement duties comes to the attention of the department by any means other than a complaint submitted pursuant to section 1208-6.3 of this Subpart, the department may:

- (i) investigate such matter in such manner as the department deems appropriate, and/or
- (ii) refer such matter to the authority having jurisdiction that employs or otherwise uses the services of such building safety inspector or code enforcement official; require such authority having jurisdiction to investigate the complaint and to submit a written report of such investigation to the department; and provide such authority having jurisdiction with instructions regarding the conduct of such investigation and the submission of such report.

(2) Such building safety inspector or code enforcement official and each authority having jurisdiction that employs or otherwise uses the services of such building safety inspector or code enforcement official shall cooperate fully with any investigation conducted pursuant to this subdivision.

(3) Upon completion of an investigation conducted by the department and/or by an authority having jurisdiction pursuant to this subdivision, the department shall determine whether the matter should be referred to the Office of Administrative Hearings pursuant to section 1208-6.5 of this Subpart or discontinued, with or without prejudice. The department shall notify the building safety inspector or code enforcement official who was the subject of the investigation and each authority having jurisdiction that employs or otherwise uses the services of such building safety

inspector or code enforcement official of the department's determination.

### **1208-6.5 Hearings and determinations.**

(a) Referral to Office of Administrative Hearings. The department may refer the question of whether a building safety inspector or code enforcement official did or did not materially fail to uphold his or her code enforcement duties to the department's Office of Administrative Hearings. Upon such referral, an administrative law judge in the Office of Administrative Hearings shall conduct a hearing and shall render a decision in writing.

(b) Hearing. The hearing shall be conducted in accordance with the provisions of Article 3 of the State Administrative Procedure Act and Part 400 of this Title that are applicable to proceedings to suspend or revoke a license. For that purpose, in any provision of Article 3 of the State Administrative Act or Part 400 of this Title (including but not necessarily limited to section 400.4(a) of Part 400) that is applicable to proceedings to suspend or revoke a license, the term "license" shall be deemed to include a certification as a building safety inspector or code enforcement official issued pursuant to any provision of this Part. However, nothing in this section or elsewhere in this Part shall be construed as categorizing any certification issued pursuant to this Part as a "license" for the purposes of any provision of the State Administrative Procedure Act or Part 400 of this Title (including but not necessarily limited to section 400.4(b) and section 400.13(b) of Part 400) that is applicable to a determination to deny an application for a license or for renewal of a license.

(c) Decision. The decision shall include findings of fact and conclusions of law or reasons for the decision, determination, or order. If the administrative law judge finds that the building safety inspector or code enforcement official did materially fail to uphold his or her code enforcement duties, the administrative law judge shall:

(1) suspend the certification of such building safety inspector or code enforcement official for such period of time, and subject to such terms and conditions, as the administrative law judge may deem to be appropriate, or

(2) revoke the certification of such building safety inspector or code enforcement official.

### **1208-6.6 Consent to jurisdiction and service.**

Each person who has performed or hereafter performs any enforcement activity on behalf of any authority having jurisdiction shall be deemed to have consented to:

(a) the jurisdiction of the department and the department's Office of Administrative Hearings for the purpose of proceedings to suspend or revoke certifications pursuant to this Subpart, and

(b) service of notices of hearing, determinations, and other papers in such proceedings by certified mail, return receipt requested, or regular first-class mail directed to such person at the address of such person last known to the department, or in any manner authorized by the Civil Practice Law and Rules or any other applicable law.

### **1208-6.7 Persons performing enforcement activities pursuant to section 1208-2.2(b) of this Part.**

Section 1208-2.2(b)(1), section 1208-2.2(b)(2), and section 1208-2.2(b)(4) of this Part authorize certain persons who have not satisfied the training requirements specified in this Part to perform certain enforcement activities, subject to the terms and conditions specified in those sections. For the purposes of this Subpart, any authority to perform enforcement activities given to a person under section 1208-2.2(b)(1), section 1208-2.2(b)(2), or section 1208- 2.2(b)(4) of this Part shall be deemed to be a certification. If a person having such authority materially fails to uphold his or her code enforcement duties, such authority shall be subject to suspension or revocation pursuant to this Subpart.

#### **1208-6.8 Inactive certifications.**

If a person whose certification has been designated as inactive pursuant to section 1208-3.5 of this Part materially fails to uphold his or her code enforcement duties, whether before or after such designation, such person's certification shall be subject to suspension or revocation pursuant to this Subpart. However:

(a) nothing in this section shall be construed as amending, or creating an exception to, the definitions of the terms "certified building safety inspector" and "certified code enforcement official, and a person whose certification has been designated as inactive is not a "certified building safety inspector" (as defined in 1208-1.2(c) of this Part) or a "certified building safety inspector" (as defined in section 1208-1.2(d) of this Part); and

(b) nothing in this section shall be construed as amending, or otherwise limiting or impairing, the provisions of section 1208-2.2(a) of this Part, and it is a violation of the minimum standard set forth in section 1208-2.2(a) of this Part for an authority having jurisdiction to allow a person whose certification has been designated as inactive to perform enforcement activities.

#### **1208-6.9 Other suspension / revocation provisions.**

The provisions of this Subpart are in addition to, and not in substitution for or limitation of, the provisions of section 1208-3.5(b) of this Part.

<b>Compilation of Codes, Rules and Regulations of the State of New York</b>
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<b>Title 19. Department of State</b>
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<b>Chapter XXXIII. State Fire Prevention and Building Code Council</b>
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<b>Subchapter A. Uniform Fire Prevention and Building Code</b>
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### **PART 1219. NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

#### **Section 1219.1 New York State Uniform Fire Prevention and Building Code.**

The New York State Uniform Fire Prevention and Building Code (the Uniform Code), adopted pursuant to Article 18 of the Executive Law, includes Part 1220 (Residential Construction), Part 1221 (Building Construction), Part 1222 (Plumbing Systems), Part 1223 (Mechanical Systems), Part 1224 (Fuel Gas Equipment and Systems), Part 1225 (Fire Prevention), Part 1226 (Property Maintenance), and Part 1227 (Existing Buildings) of this Title and the publications incorporated by reference into those Parts.

## Section 1219.2 Definitions.

(a) General. In this Part and in Parts 1220, 1221, 1222, 1223, 1224, 1225, 1226, and 1227 of this Title, the following terms shall have the following meanings:

- (1) 2020 BCNYS. The publication entitled “2020 Building Code of New York State” (publication date: November 2019), published by the International Code Council, Inc. The 2020 BCNYS is incorporated by reference in Part 1221 of this Title.
- (2) 2020 EBCNYS. The publication entitled “2020 Existing Building Code of New York State” (publication date: November 2019), published by the International Code Council, Inc. The 2020 EBCNYS is incorporated by reference in Part 1227 of this Title.
- (3) 2020 FCNYS. The publication entitled “2020 Fire Code of New York State” (publication date: November 2019), published by the International Code Council, Inc. The 2020 FCNYS is incorporated by reference in Part 1225 of this Title.
- (4) 2020 FGCNYS. The publication entitled “2020 Fuel Gas Code of New York State” (publication date: November 2019), published by the International Code Council, Inc. The 2020 FGCNYS is incorporated by reference in Part 1224 of this Title.
- (5) 2020 MCNYS. The publication entitled “2020 Mechanical Code of New York State” (publication date: November 2019), published by the International Code Council, Inc. The 2020 MCNYS is incorporated by reference in Part 1223 of this Title.
- (6) 2020 PCNYS. The publication entitled “2020 Plumbing Code of New York State” (publication date: November 2019), published by the International Code Council, Inc. The 2020 PCNYS is incorporated by reference in Part 1222 of this Title.
- (7) 2020 PMCNYS. The publication entitled “2020 Property Maintenance Code of New York State” (publication date: November 2019), published by the International Code Council, Inc. The 2020 PMCNYS is incorporated by reference in Part 1226 of this Title.
- (8) 2020 RCNYS. The publication entitled “2020 Residential Code of New York State” (publication date: November 2019), published by the International Code Council, Inc. The 2020 RCNYS is incorporated by reference in Part 1220 of this Title.
- (9) Accessory structure. A structure that is accessory to and incidental to that of a dwelling and that is located on the same lot as the dwelling.
- (10) Agricultural building. A structure designed and constructed to house farm equipment, farm implements, poultry, livestock, hay, grain, or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.
- (11) Bed and breakfast dwelling. An owner-occupied residence resulting from a conversion of a one-family dwelling, used for providing overnight accommodations and a morning meal to not more than ten transient lodgers, and containing not more than five bedrooms for such lodgers.
- (12) Dwelling. A building that contains one or two dwelling units used, intended, or designed to be used, rented, leased, let or hired out to be occupied for living purposes.
- (13) Dwelling unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (14) Existing building. A building or structure that is legally occupied and/or for which a certificate of occupancy authorizing its use(s) has been issued, without regard to the date on which such legal occupancy began or the date on which such certificate



of occupancy was issued. For avoidance of doubt, the term includes a building or structure that was legally occupied and/or for which such a certificate of occupancy was issued prior to the adoption of the rule adding this definition, and a building or structure that was legally occupied and/or for which such a certificate of occupancy was issued at any time after the adoption of said rule.

(15) Guestroom. Any room or rooms used or intended to be used by one or more guests for living or sleeping purposes.

(16) Live/work unit. A dwelling unit or sleeping unit in which a significant portion of the space includes a nonresidential use that is operated by the tenant.

(17) Lodging house. A one-family dwelling where one or more occupants are primarily permanent in nature, and rent is paid for guestrooms.

(18) Story above grade plane. Any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is any of the following:

(i) more than 6 feet (1829 mm) above grade plane;

(ii) more than 6 feet (1829 mm) above the finished ground level for more than 50 percent of the total building perimeter; or

(iii) more than 12 feet (3658 mm) above the finished ground level at any point.

(19) Townhouse. A single-family dwelling unit constructed in a group of three or more attached units in which each unit

(i) extends from the foundation to the roof,

(ii) has open space on at least two sides, and

(iii) has a separate means of egress.

(b) Other terms. Terms used in the definitions in subdivision (a) of this section and not defined in said subdivision (a) shall have the meanings ascribed to those terms in the 2020 BCNYS, the 2020 EBCNYS, the 2020 FCNYS, the 2020 FGCNYS, the 2020 MCNYS, the 2020 PCNYS, the 2020 PMCNYS, and/or the 2020 RCNYS.

## **PART 1220. RESIDENTIAL CONSTRUCTION**

### **Section 1220.1 Definitions.**

In this Part, the terms 2020 BCNYS, 2020 RCNYS, bed and breakfast dwelling, dwelling, live/work unit, lodging house, story above grade plane, and townhouse shall have the meanings ascribed to those terms in section 1219.2 of Part 1219 of this Title.

### **Section 1220.2 Requirements.**

(a) General. Except as otherwise provided in subdivision (d) of this section, the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of the following buildings and structures shall comply with the provisions and requirements of the 2020 RCNYS:

(1) detached one-family dwellings that are not more than three stories above grade plane in height, and their accessory structures that are not more than three stories above grade plane in height;

(2) detached two-family dwellings that are not more than three stories above grade plane in height and in which each dwelling unit has a separate means of egress, and their accessory structures that are not more than three stories above grade plane in height;

(3) townhouses that are not more than three stories above grade plane in height, and their accessory structures that are not more than three stories above grade plane in height;

(4) bed and breakfast dwellings that are not more than three stories above grade plane in height,

and their accessory structures that are not more than three stories above grade plane in height; (5) live/work units that are located in townhouses that are not more than three stories above grade plane in height and comply with the requirements of Section 419 of the 2020 BCNYS, and their accessory structures that are not more than three stories above grade plane in height; and (6) owner-occupied lodging houses that are not more than three stories above grade plane in height, have five or fewer guestrooms, and are provided with a residential fire sprinkler system complying with Section P2904 of the 2020 RCNYS, and their accessory structures that are not more than three stories above grade plane in height.

(b) Incorporation by reference. The 2020 RCNYS is incorporated herein by reference. Copies of the 2020 RCNYS may be obtained from the publisher at the following address:

International Code Council, Inc.

500 New Jersey Avenue, NW, 6th Floor Washington, DC 20001

The 2020 RCNYS is available for public inspection and copying at:

New York State Department of State

One Commerce Plaza, 99 Washington Avenue Albany, NY 12231-0001.

(c) Referenced standards. Certain published standards are denoted in the 2020 RCNYS as incorporated by reference into 19 NYCRR Part 1220. Such standards are incorporated by reference into this Part. Such standards are identified in the 2020 RCNYS, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the 2020 RCNYS. Such standards are available for public inspection and copying at the office of the New York State Department of State specified in subdivision (b) of this section.

(d) Exception. Notwithstanding the provisions of subdivision (a) of this section, application of the provisions and requirements of the 2020 BCNYS, rather than the provisions and requirements of the 2020 RCNYS, to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of any buildings or structures listed in subdivision (a) of this section is permitted, provided that such construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal or demolition complies with all applicable provisions and requirements of the 2020 BCNYS.

### **Section 1220.3 Changes to the text of the 2020 RCNYS.**

For the purposes of applying the 2020 RCNYS in this State, the 2020 RCNYS shall be deemed to be amended in the manner specified in this section 1220.3.

(a) 2020 RCNYS Table R301.2(1) Climatic and Geographic Design Criteria. Footnote "o" of Table R301.2(1) shall be deemed to be amended to read as follows:

"[NY] The ground snow loads to be used in determining the design snow loads for roofs are given in Figure R301.2(6) for sites at elevations up to 1,000 feet. Sites at elevations above 1,000 feet shall have their ground snow load increased from the mapped value by 2 psf for every 100 feet above 1,000 feet."

## **PART 1221. BUILDING CONSTRUCTION**

### **Section 1221.1 Definitions.**

In this Part, the terms 2020 BCNYS, 2020 RCNYS, and agricultural building shall have the meanings ascribed to those terms in section 1219.2 of Part 1219 of this Title.

### **Section 1221.2 Requirements.**

(a) General. Except as otherwise provided in subdivision (d) of this section, the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure, and every appurtenance connected or attached to any building or structure, shall comply with the provisions and requirements of the 2020 BCNYS.

(b) Incorporation by reference. The 2020 BCNYS is incorporated herein by reference. Copies of the 2020 BCNYS may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2020 BCNYS is available for public inspection and copying at:

New York State Department of State  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001.

(c) Referenced standards. Certain published standards are denoted in the 2020 BCNYS as incorporated by reference into 19 NYCRR Part 1221. Such standards are incorporated by reference into this Part. Such standards are identified in the 2020 BCNYS, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the 2020 BCNYS. Such standards are available for public inspection and copying at the Office of the New York State Department of State specified in subdivision (b) of this section.

(d) Exceptions. Notwithstanding the provisions of subdivision (a) of this section:

(1) buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2;

(2) agricultural buildings including barns, sheds, poultry houses, and other buildings and equipment on the premises that are used directly and solely for agricultural purposes, shall not be subject to the construction-related provisions and requirements of the 2020 BCNYS;

(3) construction trailers that are used as temporary offices for the purpose of monitoring construction at a construction site shall not be subject to the provisions and requirements of 2020 BCNYS;

(4) structures such as radio and television transmission, communication and wind generation towers, and ground-mounted photovoltaic arrays that are neither a building appurtenance nor are attached to a building shall not be subject to the provisions and requirements of the 2020 BCNYS; and

(5) standards for construction of sleeping quarters in a children's overnight camp as defined in Public Health Law section 1392(1) shall be governed by Public Health Law section 1394(1) and the regulations promulgated by the Public Health Council. See Executive Law section 378(1).

### **Section 1221.3 Changes to the text of the 2020 BCNYS.**

For the purposes of applying the 2020 BCNYS in this State, the 2020 BCNYS shall be deemed to be amended in the manner specified in this section 1221.3.

(a) 2020 BCNYS Chapter 35 (Referenced Standards). The entry in Chapter 35 of the 2020 BCNYS for the publication entitled "Diaphragm Design of Metal-clad, Wood-frame Rectangular Buildings" in the list of referenced standards published by the American Society of Agricultural and Biological Engineers (ASABE) shall be deemed to be amended to read as follows:

"EP 484.3 DEC 2017: Diaphragm Design of Metal-clad, Wood-frame Rectangular Buildings. (Section of this document that references this standard: 2306.1)."

## **PART 1222. PLUMBING SYSTEMS**

### **Section 1222.1 Definitions.**

In this Part, the terms 2020 EBCNYS, 2020 PCNYS, 2020 RCNYS, and agricultural building shall have the meanings ascribed to those terms in section 1219.2 of Part 1219 of this Title.

### **Section 1222.2 Requirements.**

(a) General. Except as otherwise provided in subdivision (d) of this section, the erection, installation, alteration, repair, relocation, replacement, addition to, use, and maintenance of plumbing systems and nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen, and sanitary and condensate vacuum collection systems, shall comply with the provisions and requirements of the 2020 PCNYS.

(b) Incorporation by reference. The 2020 PCNYS is incorporated herein by reference. Copies of the 2020 PCNYS may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2020 PCNYS is available for public inspection and copying at:

New York State Department of State  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001.

(c) Referenced standards. Certain published standards are denoted in the 2020 PCNYS as incorporated by reference into 19 NYCRR Part 1222. Such standards are incorporated by reference into this Part. Such standards are identified in the 2020 PCNYS, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the 2020 PCNYS. Such standards are available for public inspection and copying at the Office of the New York State Department of State specified in subdivision (b) of this section.

(d) Exceptions. Notwithstanding the provisions of subdivision (a) of this section:

(1) buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2;

(2) agricultural buildings including barns, sheds, poultry houses, and other buildings and equipment on the premises that are used directly and solely for agricultural purposes, shall not be subject to the construction-related provisions of the 2020 PCNYS; and

(3) plumbing systems in existing buildings that are undergoing repairs, alterations, changes in occupancy or construction of additions shall be permitted to comply with the provisions and requirements of the 2020 EBCNYS.

## **PART 1223. MECHANICAL SYSTEMS**

### **Section 1223.1 Definitions.**

In this Part, the terms 2020 EBCNYS, 2020 MCNYS, 2020 RCNYS, and agricultural building shall have the meanings ascribed to those terms in section 1219.2 of Part 1219 of this Title.

### **Section 1223.2 Requirements.**

(a) General. Except as otherwise provided in subdivision (d) of this section, the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings shall comply with the provisions and requirements of the 2020 MCNYS.

(b) Incorporation by reference. The 2020 MCNYS is incorporated herein by reference. Copies of the 2020 MCNYS may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2020 MCNYS is available for public inspection and copying at:

New York State Department of State  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the 2020 MCNYS as incorporated by reference into 19 NYCRR Part 1223. Such standards are incorporated by reference into this Part. Such standards are identified in the 2020 MCNYS, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the 2020 MCNYS. Such standards are available for public inspection and copying at the Office of the New York State Department of State specified in subdivision (b) of this section.

(d) Exceptions. Notwithstanding the provisions of subdivision (a) of this section:

(1) buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2;

(2) agricultural buildings including barns, sheds, poultry houses, and other buildings and equipment on the premises that are used directly and solely for agricultural purposes, shall not be subject to the construction-related provisions of the 2020 MCNYS; and

(3) mechanical systems in existing buildings that are undergoing repairs, alterations, changes in occupancy or construction of additions shall be permitted to comply with the provisions and requirements of the 2020 EBCNYS.

## **PART 1224. FUEL GAS EQUIPMENT AND SYSTEMS**

### **Section 1224.1 Definitions.**

In this Part, the terms 2020 EBCNYS, 2020 FGCNYS, 2020 RCNYS, and agricultural building shall have the meanings ascribed to those terms in section 1219.2 of Part 1219 of this Title.

### **Section 1224.2 Requirements.**

(a) General. Except as otherwise provided in subdivision (d) of this section, the design, installation, maintenance, alteration, and inspection of fuel gas piping and equipment, fuel gas-fired appliances, and fuel gas-fired appliance venting systems that are (i) permanently installed and (ii) specifically addressed in the 2020 FGCNYS, shall comply with the provisions and requirements of the 2020 FGCNYS.

(b) Incorporation by reference. The 2020 FGCNYS is incorporated herein by reference. Copies of the 2020 FGCNYS may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2020 FGCNYS is available for public inspection and copying at:

New York State Department of State  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the 2020 FGCNYS as incorporated by reference into 19 NYCRR Part 1224. Such standards are incorporated by reference into this Part. Such standards are identified in the 2020 FGCNYS, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the 2020 FGCNYS. Such standards are available for public inspection and copying at the Office of the New York State Department of State specified in subdivision (b) of this section.

(d) Exceptions. Notwithstanding the provisions of subdivision (a) of this section:

buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2;

- (1) agricultural buildings including barns, sheds, poultry houses, and other buildings and equipment on the premises that are used directly and solely for agricultural purposes, shall not be subject to the construction-related provisions of the 2020 FGCNYS; and
- (2) fuel gas piping system in existing building that are undergoing repairs, alteration, or changes in occupancy or construction of additions shall comply with the provisions and requirements of the 2020 EBCNYS.

## **PART 1225. FIRE PREVENTION**

### **Section 1225.1 Definitions.**

In this Part, the term 2020 FCNYS shall have the meaning ascribed to that term in section 1219.2 of Part 1219 of this Title.

### **Section 1225.2 Requirements.**

(a) General. All buildings and structures, whether currently existing or hereafter constructed; all premises; all processes; the storage, handling, or use of buildings, structures, materials, or devices; the occupancy and operation of buildings, structures, and premises; and the construction, extension, repair, alteration or removal of fire suppression and alarm systems, shall comply with the provisions and requirements of the 2020 FCNYS.

(b) Incorporation by reference. The 2020 FCNYS is incorporated herein by reference. Copies of the 2020 FCNYS may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2020 FCNYS is available for public inspection and copying at:

New York State Department of State  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the 2020 FCNYS as incorporated by reference into 19 NYCRR Part 1225. Such standards are incorporated by reference into this Part. Such standards are identified in the 2020 FCNYS, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the 2020 FCNYS. Such standards are available for public inspection and copying at the Office of the New York State Department of State specified in subdivision (b) of this section.

## **PART 1226. PROPERTY MAINTENANCE**

### **Section 1226.1 Definitions.**

In this Part, the terms 2020 PMCNYS and existing building shall have the meanings ascribed to those terms in section 1219.2 of Part 1219 of this Title.

### **Section 1226.2 Requirements.**

(a) General. All existing buildings and all premises, and the occupancy and operation of all existing buildings and all premises, shall comply with the provisions and requirements of the 2020 PMCNYS.

(b) Incorporation by reference. The 2020 PMCNYS is incorporated herein by reference. Copies of the 2020 PMCNYS may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2020 PMCNYS is available for public inspection and copying at:

New York State Department of State  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the 2020 PMCNYS as incorporated by reference into 19 NYCRR Part 1226. Such standards are incorporated by reference into this Part. Such standards are identified in the 2020 PMCNYS, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the 2020 PMCNYS. Such standards are available for public inspection and copying at the Office of the New York State Department of State specified in subdivision (b) of this section.

## **PART 1227. EXISTING BUILDINGS**

### **Section 1227.1 Definitions.**

In this Part, the terms 2020 EBCNYS, 2020 RCNYS, agricultural building, and existing building shall have the meanings ascribed to those terms in section 1219.2 of Part 1219 of this Title.

### **Section 1227.2 Requirements.**

(a) General. Except as otherwise provided in subdivision (d) of this section, the repair, alteration, change of occupancy, addition to, and relocation of existing buildings shall comply with the requirements of the 2020 EBCNYS.

(b) Incorporation by reference. The 2020 EBCNYS is incorporated herein by reference. Copies of the 2020 EBCNYS may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2020 EBCNYS is available for public inspection and copying at:

New York State Department of State  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the 2020 EBCNYS as incorporated by reference into 19 NYCRR Part 1227. Such standards are incorporated by reference into this Part. Such standards are identified in the 2020 EBCNYS, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the 2020 EBCNYS. Such standards are available for public inspection and copying at the Office of the New York State Department of State specified in subdivision (b) of this section.

(d) Exception. Notwithstanding the provisions of subdivision (a) of this section:

- (1) buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2; and
- (2) agricultural buildings including barns, sheds, poultry houses, and other buildings and equipment on the premises that are used directly and solely for agricultural purposes, shall not be subject to the construction-related provisions of the 2020 EBCNYS.

**Subdivisions (b) and (e) of section 1264.4 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York are amended to read as follows:**

(b) Signs shall be affixed where a building or a portion thereof is classified as Group A, B, E, F, H, I, M or S occupancy, and in hotels and motels classified as Group R-1 or R-2 occupancy, in accordance with the provisions for the classification of buildings set forth in chapter 3 of the [2015 International Building Code, as amended by the 2017 Uniform Code Supplement] 2020 Building Code of New York State (said [publications] publication being incorporated by reference in Part 1221 of this Title).

(e) Signs identifying the existence of truss construction shall contain the roman alphanumeric designation of the construction type of the building, in accordance with the provisions for the classification of types of construction set forth in section 602 of the [2015 International Building Code, as amended by the 2017 Uniform Code Supplement] 2020 Building Code of New York State (said [publications] publication being incorporated by reference in Part 1221 of this Title), and an alphabetic designation for the structural components that are of truss construction, as follows:

“F” shall mean floor framing, including girders and beams

“R” shall mean roof framing

“FR” shall mean floor and roof framing

The construction type designation shall be placed at the 12 o'clock position over the structural component designation, which shall be placed at the six o'clock position.

**Subdivisions (c), (h), (j), and (k) of section 1265.3 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York are amended to read as follows:**

(c) [IBC] 2020 BCNYS. The term [IBC] 2020 BCNYS shall mean the [2015 International Building Code, as amended by the 2017 Uniform Code Supplement] 2020 Building Code of New York State (said [publications] publication being incorporated by reference in Part 1221 of this Title).

(h) [IRC] 2020 RCNYS. The term [IRC] 2020 RCNYS shall mean the [2015 International Residential Code, as amended by the 2017 Uniform Code Supplement] 2020 Residential Code of New York State (said [publications] publication being incorporated by reference in Part 1220 of this Title).

(j) Residential structure. The term residential structure shall include one-family dwellings, two-family dwellings, and townhouses (as those terms are defined in the [IRC] 2020 RCNYS) and structures or portions of structures classified as residential group R in accordance with chapter 3 of the [IBC] 2020 BCNYS (excluding, however, hotels and motels which are classified as group R-1 or R-2 occupancy in accordance with chapter 3 of the [IBC] 2020 BCNYS and which are subject to the provisions of Part 1264 of this Title).

(k) Timber construction. The term timber construction shall mean construction that uses, for any load-supporting purpose(s), solid or laminated wood having the minimum dimensions required for structures built using type IV construction (HT) in accordance section 602.4 of the [IBC] 2020 BCNYS.

<b>Compilation of Codes, Rules and Regulations of the State of New York</b>
<b>Title 19. Department of State</b>
<b>Chapter XXXIII. State Fire Prevention and Building Code Council</b>
<b>Subchapter B. State Energy Conservation Construction Code</b>



## **Part 1240. STATE ENERGY CONSERVATION CONSTRUCTION CODE**

### **Section 1240.1 State Energy Conservation Construction Code.**

This Part and the publications incorporated by reference in this Part constitute the State Energy Conservation Construction Code (the Energy Code) promulgated pursuant to article 11 of the Energy Law.

### **Section 1240.2 Definitions.**

For the purposes of this Part, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

- (a) 2020 ECCCNY. The term “2020 ECCCNY” means the publication entitled “2020 Energy Conservation Construction Code of New York State” (publication date: November 2019) published by the International Code Council, Inc.
- (b) 2020 ECCCNY Commercial Provisions. The term “2020 ECCCNY Commercial Provisions” means that part of the 2020 ECCCNY that is designated as the “ECCCNY - Commercial Provisions.”
- (c) 2020 ECCCNY Residential Provisions. The term “2020 ECCCNY Residential Provisions” means that part of the 2020 ECCCNY that is designated as the “ECCCNY - Residential Provisions.”
- (d) ASHRAE 90.1-2016. The term “ASHRAE 90.1-2016” means the publication entitled “ANSI/ASHRAE/IES Standard 90.1-2016, Energy Standard for Buildings Except Low-Rise Residential Buildings” (October 2016 printing) published by American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc.
- (e) ASHRAE 90.1-2016 (as amended). The term “ASHRAE 90.1-2016 (as amended)” means ASHRAE 90.1-2016, as said publication is deemed to be amended by Section 1240.3 of this Part.
- (f) Commercial building. The term “commercial building” includes any building that is not a residential building (as defined in subdivision [i] of this section).
- (g) Energy Code. The term “Energy Code” means the State Energy Conservation Construction Code.
- (h) Historic building. The term “historic building” means an existing building or structure that:
  - (1) is listed in the New York State Register of Historic Places, either individually or as a contributing building to a historic district; or
  - (2) is listed in the National Register of Historic Places, either individually or as a contributing building to a historic district; or
  - (3) has been determined to be eligible for listing in either the New York State or National Register of Historic Places, either individually or as a contributing building to a historic district, by the New York State Commissioner of Parks, Recreation and Historic Preservation; or
  - (4) has been determined to be eligible for listing in the National Register of Historic Places, either individually or as a contributing building to a historic district, by the U.S. Secretary of the Interior.
- (i) Residential building. The term “residential building” includes:
  - (1) detached one-family dwellings having not more than three stories above grade plane;
  - (2) detached two-family dwellings having not more than three stories above grade plane;
  - (3) townhouse units; and
  - (4) buildings that:
    - (i) are classified in accordance with chapter 3 of the publication entitled 2020 BCNYS in Group R-2, R-3 or R-4; and
    - (ii) have not more than three stories above grade plane;
  - (5) factory manufactured homes (as defined in section 372[8] of the Executive Law); and
  - (6) mobile homes (as defined in section 372[13] of the Executive Law).
- (j) Townhouse unit. The term “townhouse unit” means a single-family dwelling unit constructed in

a group of three or more attached units in which each unit:

- (1) extends from the foundation to roof;
- (2) has open space on at least two sides; and
- (3) has a separate means of egress.

### **Section 1240.3 Amendments made to ASHRAE 90.1-2016**

For the purposes of applying ASHRAE 90.1-2016 in New York State, ASHRAE 90.1-2016 shall be deemed to be amended in the following manner:

(a) Amendments to Section 3.2 (Definitions). The definitions of the terms “building,” “historic,” and “secondary sidelighted area” (which is included under the definition of “daylight area”) in Section 3.2 of ASHRAE 90.1-2016 shall be deemed to be amended as follows:

(1) The definition of “building” shall be deemed to be amended and restated in its entirety to read as follows: building: any structure used or intended for supporting or sheltering any use or occupancy or for affording shelter to persons, animals or property, together with (A) any equipment, mechanical systems, service water heating systems, and electric power and lighting systems located in such structure, and (B) any mechanical systems, service water heating systems, and electric power and lighting systems located on the site where such structure is located and supporting such structure. The term “building” shall include, but shall not be limited to, factory manufactured homes (as defined in section 372(8) of the Executive Law) and mobile homes (as defined in section 372(13) of the Executive Law).

(2) The definition of “historic” shall be deemed to be amended and restated in its entirety to read as follows:

*historic* (or *historic building*): any building that (1) is listed in the New York State Register of Historic Places, either individually or as a contributing building to a historic district; or (2) is listed in the National Register of Historic Places, either individually or as a contributing building to a historic district; or (3) has been determined to be eligible for listing in either the New York State or National Register of Historic Places, either individually or as a contributing building to a historic district, by the New York State Commissioner of Parks, Recreation and Historic Preservation; or (4) has been determined to be eligible for listing in the National Register of Historic Places, either individually or as a contributing building to a historic district, by the U.S. Secretary of the Interior.

(3) In the definition of “secondary sidelighted area” (which is included under the definition of “daylight area”), the phrase “5 ft or higher” in the last sentence shall be deemed to be amended to read as follows “5 ft. or higher”.

(b) Amendment to Section 3.3 (Abbreviations and Acronyms). The meaning of “IES” in Section 3.3 of ASHRAE 90.1- 2016 shall be deemed to be amended to read as follows: “Illuminating Engineering Society.”

(c) Amendment to Section 4.2.1.3 (Alterations of existing buildings). The exception to Section 4.2.1.3 of ASHRAE 90.1-2016 shall be deemed to be amended and restated in its entirety to read as follows:

Exception to 4.2.1.3

*Historic buildings* need not comply with these requirements.

(d) Amendment to Section 5.9.1 (Inspections). Section 5.9.1 of ASHRAE 90.1-2016 shall be deemed to be amended to add the following informative note immediately after the section:

Informative Note: See Appendix E for commissioning references.

(e) Amendment to Section 6.4.3.11.1 (Monitoring). The last sentence of Section 6.4.3.11.1 of ASHRAE 90.1-2016 shall be deemed to be amended to read as follows:

The efficiency shall be calculated in kW/ton (see Appendix E).

(f) Amendment to Section 6.4.4.2.2 (Duct Leakage Tests). The equation in Section 6.4.4.2.2 of ASHRAE 90.1-2016 shall be deemed to be amended and restated in its entirety to read as follows:

$$L_{max} = CLP0.65$$

where

$L_{max}$  = maximum permitted leakage, cfm per 100 ft<sup>2</sup> of duct surface area  
 $C_L$  = 4, duct leakage class, cfm per 100 ft<sup>2</sup> of duct surface area per in. of water  
 $P$  = test pressure, which shall be equal to the design duct pressure class rating, in. of water

(g) Amendment to Section 6.5.3.6 (Fractional Horsepower Fan Motors). Exception 3 in the Exceptions to Section 6.5.3.6 of ASHRAE 90.1-2016 shall be deemed to be amended and restated in its entirety as follows:

3. Motors covered by Table 10.8-3 or Table 10.8-4.

(h) Amendment to Section 6.5.4.4 (Chilled- and Hot-Water Temperature Reset Controls). Exception 3 in the Exceptions to Section 6.5.4.4 of ASHRAE 90.1-2016 shall be deemed to be amended and restated in its entirety to read as follows:

3. Water temperature reset is not required where the valve position is used to comply with Section 6.5.4.2.

(i) Amendment to Table 6.8.1-10 (Electrically Operated Variable-Refrigerant-Flow and Applied Heat Pumps – Minimum Efficiency Requirements). The entry for equipment type subcategory “VRF groundwater source (cooling mode)” in Table 8.8.1-10 of ASHRAE 90.1-2016 shall be deemed to be amended and restated in its entirety to read as follows:

<u>Equipment Type</u>	<u>Size Category</u>	<u>Heating Type</u>	<u>Section</u>	<u>Subcategory Rating Condition</u>	<u>or Minimum Efficiency</u>	<u>Test Procedure</u>
VRF groundwater source (cooling mode)	<135,000 Btu/h	All		VRF multisplit system 59°F entering water	16.2 EER	AHRI 1230
				VRF multisplit system with heat recovery 59°F entering water	16.0 EER	
	≥135,000 Btu/h			VRF multisplit system 59°F entering water	13.8 EER	
				VRF multisplit system with heat recovery 59°F entering water	13.6 EER	

(j) Amendment to Table 6.8.3-1 (Minimum Piping Insulation Thickness Heating and Hot Water Systems [Steam, Steam Condensate, Hot-Water Heating and Domestic Water Systems]). Note e of Table 6.8.3-1 of ASHRAE 90.1- 2016 shall be deemed to be amended and restated in its entirety to read as follows:

e. The table is based on steel pipe. Nonmetallic pipes schedule 80 thickness or less shall use the table values. For other nonmetallic pipes having thermal resistance greater than that of steel pipe, reduced insulation thicknesses are permitted if documentation is provided showing that the pipe with the proposed insulation has no more heat transfer per foot than a steel pipe of the same size with the insulation thickness shown in the table.

(k) Amendment to Section 9.4.1.1(g) (Interior Lighting Controls – Automatic partial OFF [full Off complies]). The Exception to Section 9.4.1.1(g) of ASHRAE 90.1-2016 shall be deemed to be amended and restated in its entirety to read as follows:

Exception to 9.4.1.1(g)

This requirement does not have to be complied with in spaces that meet all four of the following requirements:

1. The space has an installed LPD of no more than 0.80 W/ft<sup>2</sup>.

2. The space is lighted by HID lamp.
  3. The general lighting power in the space is automatically reduced by at least 30% within 20 minutes of all occupants leaving the space.
  4. Lighting load does not exceed 0.02 W/ft<sup>2</sup> multiplied by the gross lighted area of the building.
- (l) Amendment to Section 9.4.1.1(h) (Interior Lighting Controls – Automatic full OFF). The Exceptions to Section 9.4.1.1(h) of ASHRAE 90.1-2016 shall be deemed to be amended by adding a new exception 4, to read as follows:
4. Lighting load not exceeding 0.02 W/ft<sup>2</sup> multiplied by the gross lighted area of the building.
- (m) Amendment to Section 12 (Normative References). The entry in the “Reference” column of Section 12 of ASHRAE 90.1-2016 that currently reads “AHRI 340/360-2015 (I-P) and AHRI 340/360-2015 (SI)” shall be deemed to be amended to read as follows: “AHRI 340/360-2015.”
- (n) Amendments to Informative Appendix E (Informative References). The table in Informative Appendix E of ASHRAE 90.1-2016 shall be deemed to be amended by adding two new rows for Subsection 5.9.1; amending the row for Subsection 6.7.2.3 by changing Subsection 6.7.2.3 to Subsection 6.7.2.4; amending the two rows for Subsection 6.7.2.3 by changing Subsection 6.7.2.3 to Subsection 6.7.2.3.1; and adding two new rows for Subsection 6.7.2.4, such new rows and such amended rows to read as follows:

Subsection No.	Reference	Title/Source
5.9.1	ASTM E2947-14	Standard Guide for Building Enclosure Commissioning
5.9.1	ASTM E2813-12	Standard Practice for Building Enclosure Commissioning
6.7.2.4	NEBB Procedural Standards—2013	Procedural Standards for Building Systems Commissioning
6.7.2.3.1	AABC 2002	Associated Air Balance Council, National Standards for Total System Balance
6.7.2.3.1	ASHRAE Standard 111-2008	Measurement, Testing, Adjusting and Balancing of Building HVAC Systems
6.7.2.4	ASHRAE Standard 202-2013	Commissioning Process for Buildings and Systems
6.7.2.4	ASHRAE Guideline 0-2013	The Commissioning Process

- (o) Amendments to Section G3.1.3.11 (Heat Rejection [Systems 7, 8, 9, 12, and 13]). Section G3.1.3.11 in Normative Appendix G of ASHRAE 90.1-2016 shall be deemed to be amended by replacing the term “water-side economizer” with the term “fluid economizer” in each of the two places in Section G3.1.3.11 where the term “water-side economizer” appears.
- (p) Amendments to Table G3.1.1-3 (Baseline HVAC System Types). Table G3.1.1-3 in Normative Appendix G of ASHRAE 90.1-2016 shall be deemed to be amended by replacing the term *residential* with the term *nonresidential* in each of the last three rows of the Table.
- (q) Amendment to Table H-1 (Addenda to ANSI/ASHRAE/IES Standard 90.1-2013). Table H-1 in Informative Appendix H of ASHRAE 90.1-2016 shall be deemed to be amended by replacing the term “unlabeled” with “unlabeled” in the entry for Addendum “ad.”
- (r) Amendment to Section Annex1-1: ASHRAE Standard 169-2013, Section A3: Climate Zone Definitions. The sentence immediately following item b.3 in “Section Annex1-1: ASHRAE Standard 169-2013, Section A3: Climate Zone Definitions” in Annex1-1 of ASHRAE 90.1-2016 shall be deemed to be amended to read as follows: “Use the third criteria below for determining

the Dry/Humid threshold if not Marine (C).”

(s) Amendments to Footnotes: Footnote 1 on page 10 and Footnote 2 on page 249 of ASHRAE 90.1-2016 shall be deemed to be amended to read as follows: “Schedules and internal loads by building area type are found at <http://sspc901.ashraepcs.org/documents.php>.”

#### **Section 1240.4 Energy Code provisions applicable to commercial buildings.**

(a) 2020 ECCCNY Commercial Provisions. Except as otherwise provided in section 1240.6 of this Part, the construction of all new commercial buildings; all additions to, alterations of, and/or renovations of existing commercial buildings; and all additions to, alterations of, and/or renovations of building systems in existing commercial buildings shall comply with the requirements of the 2020 ECCCNY Commercial Provisions. The 2020 ECCCNY Commercial Provisions are incorporated herein by reference. Copies of the 2020 ECCCNY (which includes the 2020 ECCCNY Commercial Provisions) may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2020 ECCCNY is available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(b) ASHRAE 90.1-2016 (as amended). To the extent provided in the 2020 ECCCNY Commercial Provisions, compliance with the requirements of ASHRAE 90.1-2016 (as amended) shall be permitted in lieu of compliance with specified sections of the 2020 ECCCNY Commercial Provisions. ASHRAE 90.1-2016 (as amended) is ASHRAE 90.1-2016, as said publication is deemed to be amended by section 1240.3 of this Part. ASHRAE 90.1-2016 is incorporated herein by reference. Copies of ASHRAE 90.1-2016 may be obtained from the publisher electronically at [http://www.techstreet.com/ashrae?ashrae\\_auth\\_token](http://www.techstreet.com/ashrae?ashrae_auth_token), or at the following address:

American Society of Heating, Refrigerating and Air-Conditioning  
Engineers, Inc.  
1791 Tullie Circle, NE  
Atlanta, GA 30329-2305

ASHRAE 90.1-2016 is available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(c) Referenced standards. The referenced standards listed in Chapter 6 of the 2020 ECCCNY Commercial Provisions are considered to be part of the 2020 ECCCNY Commercial Provisions, subject to the provisions and limitations set forth in sections C107.I, C107.1.1, and C107.1.2 of the 2020 ECCCNY Commercial Provisions. The following referenced standards are incorporated herein by reference and shall be considered to be part of the 2020 ECCCNY Commercial Provisions, subject to the provisions and limitations set forth in sections C107.I, C107.1.1, and C107.1.2 of the 2020 ECCCNY Commercial Provisions:

(1) AHRI. The following publication published by the Air Conditioning, Heating, and Refrigeration Institute are incorporated herein by reference:

(i) Performance Rating of Room Fan Coils, publication date 2008 (AHRI 440-08).

Copies of said publication may be obtained from the publisher at the following address:

Air Conditioning, Heating, and Refrigeration Institute  
2111 Wilson Blvd, Suite 500  
Arlington, VA 22201

Copies of said publication are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(2) ASHRAE. The following publications published by American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. are incorporated herein by reference:

- (i) ANSI/ASHRAE/IES Standard 90.1-2016, Energy Standard for Buildings Except Low-Rise Residential Buildings, October 2016 printing (ASHRAE 90.1-2016) (NOTE: ASHRAE 90.1-2016 is published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., is jointly sponsored by the Illuminating Engineering Society of North America and the American National Standards Institute, and is also known as ANSI/ASHRAE/IES 90.1-2016); and Peak Cooling and Heating Load Calculations in Buildings, Except Low-Rise Residential Buildings, publication date 2014 (ANSI/ASHRAE/ACCA Standard 183-2007 [RA 2014]).

Copies of said publications may be obtained from the publisher at the following address:

American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.  
1791 Tullie Circle NE  
Atlanta, GA 30329

Copies of said publications are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(3) ASTM. The following publications published by ASTM International are incorporated herein by reference:

- (i) Standard Test Method for Determining Air Leakage Rate by Fan Pressurization, publication date 2010 (ASTM E 779-2010);
- (ii) Specification for Air Barrier (AB) Material or System for Low-Rise Framed Building Walls, publication date 2011 (ASTM E 1677-2011); and
- (iii) Standard Test Methods for Determining Airtightness of Building Using an Orifice Blower Door, publication date 2011 (ASTM E1827-2011).

Copies of said publications may be obtained from the publisher at the following address:

ASTM International  
100 Barr Harbor Drive, P.O. Box C700  
West Conshohocken, PA 19428-2859

Copies of said publications are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(4) ICC. The following publications published by International Code Council, Inc. are incorporated herein by reference:

- (i) 2020 Building Code of New York State (publication date: November 2019);
- (ii) 2020 Fire Code of New York State (publication date: November 2019);
- (iii) 2020 Fuel Gas Code of New York State (publication date: November 2019);
- (iv) 2020 Mechanical Code of New York State (publication date: November 2019);
- (v) 2020 Plumbing Code of New York State (publication date: November 2019);
- (vi) 2020 Property Maintenance Code of New York State (publication date: November 2019);
- (vii) 2020 Residential Code of New York State (publication date: November 2019); and
- (viii) 2020 Existing Building Code of New York State (publication date: November 2019).

Copies of said publications may be obtained from the publisher at the following address:

International Code Council, Inc.

500 New Jersey Avenue, NW, 6th floor  
Washington, DC 20001

Copies of said publications are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(5) NFPA. The following publication published by National Fire Protection Association is incorporated hereby by reference:

(i) National Electrical Code, publication date 2017 (NFPA 70-17).

Copies of said publication may be obtained from the publisher at the following address:

National Fire Protection Association  
One Batterymarch Park  
Quincy, MA 02169-7471

Copies of said publication are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

### **Section 1240.5 Energy Code provisions applicable to residential buildings.**

(a) 2020 ECCCNYs Residential Provisions. Except as otherwise provided in section 1240.6 of this Part, the construction of all new residential buildings; all additions to, alterations of, and/or renovations of existing residential buildings; and all additions to, alterations of, and/or renovations of building systems in existing residential buildings shall comply with the requirements of the 2020 ECCCNYs Residential Provisions. The 2020 ECCCNYs Residential Provisions are incorporated herein by reference. Copies of the 2020 ECCCNYs (which includes the 2020 ECCCNYs Residential Provisions) may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2020 ECCCNYs is available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(b) Referenced standards. The referenced standards listed in Chapter 6 of the 2020 ECCCNYs Residential Provisions are considered to be part of the 2020 ECCCNYs Residential Provisions, subject to the provisions and limitations set forth in sections R107.1, R107.1.1, and R107.1.2 of the 2020 ECCCNYs Residential Provisions. The following referenced standards are incorporated herein by reference and shall be considered to be part of the 2020 ECCCNYs Residential Provisions, subject to the provisions and limitations set forth in sections R107.1, R107.1.1, and R107.1.2 of the 2020 ECCCNYs Residential Provisions:

(1) ACCA. The following publications published by Air Conditioning Contractors of America are incorporated herein by reference:

(i) Residential Load Calculation, eighth edition, publication date 2011 (Manual J - 2011); and  
(ii) Residential Equipment Selection, publication date 2014 (Manual S-2014).

Copies of said publications may be obtained from the publisher at the following address:

Air Conditioning Contractors of America  
2800 Shirlington Road, Suite 300  
Arlington, VA 22206

Copies of said publications are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(2) ASHRAE. The following publications published by American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. are incorporated herein by reference:

- (i) ASHRAE Fundamentals Handbook, publication date 2017 (ASHRAE 2017); and
- (ii) ASHRAE Fundamentals Handbook, publication date 2001 (ASHRAE 2001).

Copies of said publications may be obtained from the publisher at the following address:

American Society of Heating, Refrigerating and Air-Conditioning  
Engineers, Inc  
1791 Tullie Circle, NE  
Atlanta, GA 30329-2305

Copies of said publication are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(3) ASTM. The following publications published by ASTM International are incorporated herein by reference:

- (i) Standard Test Method for Determining Air Leakage Rate by Fan Pressurization, publication date 2010 (ASTM E 779-2010); and
- (ii) Standard Test Method for Determining Airtightness of Building Using an Orifice Blower Door, publication date 2011 (ASTM E 1827-2011).

Copies of said publications may be obtained from the publisher at the following address:

ASTM International  
100 Barr Harbor Drive, P.O. Box C700  
West Conshohocken, PA 19428-2859

Copies of said publications are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(4) BOMA. The following publication published by Building Owners and Managers Association (BOMA) International is hereby incorporated herein by reference:

- (i) Standard Method for Measuring Floor Area in Office Buildings, publication date 1996 (ANSI/BOMA Z65.1-1996).

Copies of said publication may be obtained from the publisher at the following address:

Building Owners and Managers Association (BOMA) International  
1101 15th Street NW, Suite 800  
Washington, DC 20005

Copies of said publication are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(5) ICC. The following publications published by International Code Council, Inc. are incorporated herein by reference:

- (i) 2020 Building Code of New York State (publication date: November 2019);
- (ii) 2020 Fire Code of New York State (publication date: November 2019);
- (iii) 2020 Fuel Gas Code of New York State (publication date: November 2019);
- (iv) 2020 Mechanical Code of New York State (publication date: November 2019);
- (v) 2020 Plumbing Code of New York State (publication date: November 2019);
- (vi) 2020 Property Maintenance Code of New York State (publication date: November 2019);
- (vii) 2020 Residential Code of New York State (publication date: November 2019);
- (viii) 2020 Existing Building Code of New York State (publication date: November 2019);
- (ix) Standard for the Calculation and Labeling of the Energy Performance of Low-rise Residential Buildings using an Energy Rating Index First Published March 7, 2014, publication date January 2016 (ANSI/RESNET/ICC 301-2014);
- (x) Standard for Testing Airtightness for Building Enclosures, Airtightness of Heating and Cooling Air Distribution Systems and Airflow of Mechanical Ventilation Systems, publication date January 2016 (ANSI/RESNET/ICC 380- 2016);
- (xi) 2015 International Energy Conservation Code, publication date second printing: May 2015



(IECC-2015); and

(xii) Energy Conservation Construction Code of New York State, publication date 2010.

Copies of said publications may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

Copies of said publications are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

(6) NFPA. The following publication published by National Fire Protection Association is incorporated herein by reference:

(i) National Electric Code, publication date 2017 (NFPA 70-17).

Copies of said publication may be obtained from the publisher at the following address:

National Fire Protection Association  
One Batterymarch Park  
Quincy, MA 02169-7471

Copies of said publication are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

### **Section 1240.6 Exceptions.**

(a) Historic buildings. The Energy Code shall not apply to the alteration or renovation of a historic building.

(b) Certain alterations. The Energy Code shall not apply to the following alterations of existing buildings, provided that the alteration will not increase the energy usage of the building:

(1) storm windows installed over existing fenestration;

(2) glass only replacements in an existing sash and frame;

(3) existing ceiling, wall, or floor cavities exposed during construction provided that these cavities are filled with insulation;

(4) construction where the existing roof, wall, or floor cavity is not exposed;

(5) reroofing for roofs where neither the sheathing nor the insulation is exposed; roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing;

(6) replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates such conditioned space from the exterior shall not be removed;

(7) alterations that replace less than 50 percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power; and

(8) alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the alteration does not increase the installed interior lighting power.

[Title 19. Department of State](#)

[Chapter XXXIII. State Fire Prevention and Building Code Council Subchapter](#)

[C. Other Regulations](#)

## **Part 1264. Identification of Buildings Utilizing Truss Type Construction**

### **Section 1264.1. Introduction**

Section 382-a of the Executive Law provides that commercial and industrial buildings and

structures that utilize truss type construction shall be marked by a sign or symbol that informs persons conducting fire control and other emergency operations of the existence of truss construction. [Section 382-a](#) further directs the State Fire Prevention and Building Code Council to promulgate rules and regulations it deems necessary to carry into effect the provisions of the statute. This Part establishes certain requirements pertaining to the identification of buildings and structures that utilize truss type construction.

## **Section 1264.2. Enforcement**

[Subdivision 4 of section 382-a of the Executive Law](#) directs local governments to provide for enforcement of the statute. Enforcement of [section 382-a of the Executive Law](#) shall include enforcement of the provisions of this Part. A fee of \$50 shall be paid by the owner of a building with truss type construction to the authority having jurisdiction for enforcement of [section 382-a of the Executive Law](#) prior to the issuance of a building permit.

This Part shall not apply within a city with a population of one million or more persons.

## **Section 1264.3. Definition**

For the purposes of this Part, truss type construction shall mean a fabricated structure of wood or steel, made up of a series of members connected at their ends to form a series of triangles to span a distance greater than would be possible with any of the individual members on their own. Truss type construction shall not include:

- (a) individual wind or seismic bracing components which form triangles when diagonally connected to the main structural system; and
- (b) structural components that utilize solid plate web members.

## **Section 1264.4. Identification of truss type construction**

(a) Truss type construction shall be identified by a sign or signs in accordance with the provisions of this Part.

(b) Signs shall be affixed where a building or a portion thereof is classified as Group A, B, E, F, H, I, M or S occupancy, and in hotels and motels classified as Group R-1 or R-2 occupancy, in accordance with the provisions for the classification of buildings set forth in chapter 3 of the 2015 International Building Code, as amended by the 2017 Uniform Code Supplement (said publications being incorporated by reference in Part 1221 of this Title).

(c) Signs shall be provided in newly constructed buildings that utilize truss type construction and in existing buildings where an addition that extends or increase the floor area of the building utilizes truss type construction. Signs shall be affixed prior to the issuance of a certificate of occupancy or a certificate of compliance.

(d) Signs identifying the existence of truss construction shall consist of a circle six inches (152.4 mm) in diameter, with a stroke width of 1/2 inch (12.7 mm). The sign background shall be reflective white in color. The circle and contents shall be reflective red in color, conforming to Pantone matching system (PMS) #187. Where a sign is directly applied to a door or sidelight, it may be a

permanent non-fading sticker or decal. Signs not directly applied to doors or sidelights shall be of sturdy, non-fading, weather-resistant material.

(e) Signs identifying the existence of truss construction shall contain the roman alphanumeric designation of the construction type of the building, in accordance with the provisions for the classification of types of construction set forth in section 602 of the 2015 International Building Code, as amended by the 2017 Uniform Code Supplement (said publications being incorporated by reference in Part 1221 of this Title), and an alphabetic designation for the structural components that are of truss construction, as follows:

"F" shall mean floor framing, including girders and beams;

"R" shall mean roof framing;

"FR" shall mean floor and roof framing;

The construction type designation shall be placed at the 12 o'clock position over the structural component designation, which shall be placed at the six o'clock position.

Signs identifying the existence of truss construction shall be affixed in the locations specified in Table I-1264 of this section.

**TABLE I-1264**  
**TRUSS IDENTIFICATION SIGN LOCATIONS**

Sign Location	Sign Placement
Exterior building entrance doors, exterior exit discharge doors, and exterior roof access doors to a stairway	Attached to the door, or attached to a sidelight or the face of the building, not more than 12 inches (305 mm) horizontally from the latch side of the door jamb, and not less than 42 inches (1067 mm) nor more than 60 inches (1524 mm) above the adjoining walking surface.
Multiple contiguous exterior building entrance or exit discharge doors	Attached at each end of the row of doors and at a maximum horizontal distance of 12 feet (3.65M) between signs, and not less than 42 inches (1067 mm) nor more than 60 inches (1524 mm) above the adjoining walking surface
Fire department hose connections	Attached to the face of the building, not more than 12 inches (305 mm) horizontally from the center line of the fire department hose connection, and not less than 42 inches (1067 mm) nor more than 60 inches (1524 mm) above the adjoining walking surface

## **Part 1265. Residential Structures with Truss Type Construction, Pre-Engineered Wood Construction and/or Timber Construction**

### **Section 1265.1. Introduction**

(a) Section 382-b of the Executive Law provides that any person utilizing truss type, pre-engineered wood or timber construction for the erection of any new residential structure, for any addition to an existing residential structure, or for any rehabilitation of an existing residential structure, shall, upon application for a building permit with the local government having jurisdiction, include on the permit application that truss type, pre-engineered wood or timber construction is being utilized, and that the property owner or the property owner's representative shall complete a form prescribed by the State Fire Prevention and Building Code Council

(hereinafter referred to as the Code Council) designating the structure as truss type, pre-engineered wood or timber construction and file such form with the application for a building permit. Section 382-b of the Executive Law further provides that as a condition of the final receipt of a certificate of occupancy or certificate of completion, a sign or symbol designed and approved by the Code Council shall be affixed to any electric box attached to the exterior of the structure, if such an electric box exists. This Part prescribes:

(1) the form to be used by the property owner or property owner's representative to designate a residential structure as truss type, pre-engineered wood or timber construction; and

(2) the sign or symbol to be affixed to the exterior electric box, if any, of a residential building that utilizes truss type, pre-engineered wood and/or timber construction.

### **Section 1265.2 Applicability**

(a) This Part shall apply to the construction of each new residential structure and to each addition to or rehabilitation of an existing residential structure, when:

(1) truss type construction, pre-engineered wood construction, and/or timber construction is utilized in such construction, addition or rehabilitation, and

(2) such construction, addition or rehabilitation:

(i) was commenced on or after January 1, 2015; or

(ii) was commenced prior to January 1, 2015 and was not completed prior to January 1, 2015.

(b) Notwithstanding the provisions of subdivision (a) of this section, this Part shall not apply in any city having a population in excess of one million persons.

### **Section 1265.3. Definitions**

For the purposes of this Part, the following terms shall have the following meanings:

(a) **Addition.** The term addition shall mean an extension or increase in floor area or height of a residential structure.

(b) **Authority having jurisdiction.** The term authority having jurisdiction shall mean the city, town, village, county, agency or other governmental unit responsible for administration and enforcement of the State Uniform Fire Prevention and Building Code with respect to the subject residential structure.

(c) **IBC.** The term IBC shall mean the 2015 International Building Code, as amended by the 2017 Uniform Code Supplement (said publications being incorporated by reference in Part 1221 of this Title).

(d) **Electric box.** The term electric box shall mean the box, if any, mounted on the exterior of the residential structure at the point of connection between the facilities of the serving utility and the premises wiring.

(e) **Existing residential structure.** The term existing residential structure means a residential structure that is already in existence at the time an addition or rehabilitation is commenced, without regard to the date of original construction of the residential structure.

(f) **New residential structure.** The term new residential structure means a residential structure constructed on or after January 1, 2015. For the purposes of this definition, a date of construction of a residential structure shall be deemed to be the date of completion of the original construction of such residential structure, and a residential structure shall be deemed to be a new residential structure if the original construction of such residential structure:

- (1) was commenced on or after January 1, 2015; or
- (2) was commenced prior to January 1, 2015 and was not completed prior to January 1, 2015.

(g) **Pre-engineered wood construction.** The term pre-engineered wood construction shall mean construction that uses, for any load-supporting purpose(s), girders, beams, or joists made using wood components (or wood-based components) that are bonded together with adhesives (including, but not limited to, prefabricated wood I-joists, structural glued laminated timbers, structural log members, structural composite lumber, and cross-laminated timber).

(h) **IRC.** The term IRC shall mean the 2015 International Residential Code, as amended by the 2017 Uniform Code Supplement (said publications being incorporated by reference in Part 1220 of this Title).

(i) **Rehabilitation.** The term rehabilitation shall mean any repair, renovation, alteration or reconstruction work undertaken in an existing residential building.

(j) **Residential structure.** The term residential structure shall include one-family dwellings, two-family dwellings, and townhouses (as those terms are defined in the IRC) and structures or portions of structures classified as residential group R in accordance with chapter 3 of the IBC (excluding, however, hotels and motels which are classified as group R-1 or R-2 occupancy in accordance with chapter 3 of the IBC and which are subject to the provisions of Part 1264 of this Title).

(k) **Timber construction.** The term timber construction shall mean construction that uses, for any load-supporting purpose(s), solid or laminated wood having the minimum dimensions required for structures built using type IV construction (HT) in accordance section 602.4 of the IBC.

(l) **Truss type construction.** The term truss type construction shall mean construction that uses, for any load supporting purpose(s), a fabricated structure of wood or steel, made up of a series of members connected at their ends to form a series of triangles to span a distance greater than would be possible with any of the individual members on their own. Truss type construction shall not include:

- (1) individual wind or seismic bracing components which form triangles when diagonally connected to the main structural system; or
- (2) structural components that utilize solid plate web members.

#### **Section 1265.4. Notice to be given to authority having jurisdiction**

(a) When truss type construction, pre-engineered wood construction, and/or timber construction is to be utilized in the construction of a new residential structure or in an addition to or rehabilitation of an existing residential structure, the owner of such structure, or the owner's duly authorized

representative, shall notify the authority having jurisdiction of that fact. Such notice shall be in writing and shall be provided to the authority having jurisdiction with the application for a building permit. In the case of a construction, addition or rehabilitation project commenced prior to January 1, 2015 and not completed prior to January 1, 2015, such notice shall be given as soon as practicable after January 1, 2015 and in any event prior to the issuance of the certificate of occupancy or certificate of compliance for such project.

(b)

(1) The form to be used to give the notice required by subdivision (a) of this section shall be substantially similar to the following, with all applicable lines checked and all blanks filled in with the appropriate information:

**NOTICE OF UTILIZATION OF TRUSS TYPE CONSTRUCTION, PRE- ENGINEERED  
WOOD CONSTRUCTION AND/OR TIMBER CONSTRUCTION**

To: [insert name of authority having jurisdiction]

Owner: [insert name of owner of the subject property]

Subject Property: [insert street address and tax map number, if any, of the subject property]

Please take notice that the (check applicable line):

☐ new residential structure

☐ addition to existing residential structure

☐ rehabilitation to existing residential structure

to be constructed or performed at the subject property reference above will utilize (check each applicable line):

☐ truss type construction (TT)

☐ pre-engineered wood construction (PW)

☐ timber construction (TC)

in the following location(s) (check applicable line):

☐ floor framing, including girders and beams (F)

☐ roof framing (R)

☐ floor framing and roof framing (FR).

Date: [insert date form is signed]

Signature: [signature of person submitting form to the authority having jurisdiction]

Name: [print or type name of person signing and submitting form]

Capacity: [insert "Owner" or "Owner's Representative" as applicable]

(2) An authority having jurisdiction shall be permitted to prescribe its own form to be used to give the notice required by subdivision (a) of this section, provided that such form requests at least same information as the form prescribed in paragraph (1) of this subdivision.

### **Section 1265.5. Sign or symbol**

(a) When truss type construction, pre-engineered wood construction, and/or timber construction is utilized in the construction of a new residential structure or in an addition to or rehabilitation of an existing residential structure, such residential structure shall be identified by a sign or symbol in accordance with the provisions of this Part.

(b) The sign or symbol required by this Part shall be affixed to the electric box attached to the exterior of the residential structure; provided, however, that:

(1) if affixing the sign or symbol to the electric box would obscure any meter on the electric box, or if the utility providing electric service to the residential structure does not allow the sign or symbol to be affixed to the electric box, the sign or symbol shall be affixed to the exterior wall of the residential structure at a point immediately adjacent to the electric box; and

(2) if no electric box is attached to the exterior of the residential structure or if, in the opinion of the authority having jurisdiction, the electric box attached to the exterior of the building is not located in a place likely to be seen by firefighters or other first responders responding to a fire or other emergency at the residential structure, the sign or symbol required by this Part shall be affixed to the exterior of the residential structure in a location approved by the authority having jurisdiction as a location likely to be seen by firefighters or other first responders responding to a fire or other emergency at the residential structure.

(c) The sign or symbol required by this Part shall be affixed prior to the issuance of a certificate of occupancy or a certificate of compliance. The authority having jurisdiction shall not issue a certificate of occupancy or certificate of compliance until the sign or symbol required by this Part shall have been affixed.

(d) The property owner shall be responsible for maintaining the sign or symbol required by this Part and shall promptly replace any such sign or symbol that is affixed to an electric box when any change or modification is made to such electric box. The property owner shall promptly replace the sign or symbol required by this Part if such sign or symbol is removed or becomes damaged, faded, worn or otherwise less conspicuous to firefighters or other first responders responding to a fire or other emergency at the residential structure. The property owner shall keep the area in the vicinity of the sign or symbol required by this Part clear of all plants, vegetation, and other obstructions that may hide or obscure such sign or symbol or otherwise cause such sign or symbol to be less conspicuous to firefighters or other first responders responding to a fire or other emergency at the residential structure.

(e) The sign or symbol indicating the utilization of truss type construction, pre-engineered wood construction and/or timber construction shall comply with the requirements of this subdivision.

(1) The sign or symbol shall consist of a circle six inches (152.4 mm) in diameter, with a stroke width of 1/2 inch (12.7 mm). The background of the sign or symbol shall be reflective white in color. The circle and contents shall be reflective red in color, conforming to Pantone matching system (PMS) #187.

(2) The sign or symbol shall be of sturdy, non-fading, weather-resistant material; provided, however, that a sign or symbol applied directly to a door or sidelight may be a permanent non-fading sticker or decal.

(3) The sign or symbol shall contain an alphabetic construction type designation to indicate the construction type of the residential structure, as follows:

(i) if the residential structure is subject to the provisions of the IRC, the construction type designation shall be "V"; and

(ii) if the residential structure is subject to the provisions of the IBC, the construction type designation shall be "I", "II", "III", "IV" or "V" to indicate the construction classification of the structure under section 602 of the IBC.

(4) The sign or symbol shall contain an alphabetic location designation to indicate the locations(s) containing truss type construction, pre-engineered wood construction and/or timber construction structural components, as follows:

- (i) "F" shall mean floor framing, including girders and beams;
- (ii) "R" shall mean roof framing; and
- (iii) "FR" shall mean floor framing and roof framing.

(5) The construction type designation shall be placed at the 12 o'clock position of the sign or symbol, over the location designation, which shall be placed at the six o'clock position of the sign or symbol.

### **Section 1265.6. Notification, consultation, and warning**

(a) Upon receipt of a form indicating that truss type, pre-engineered wood or timber construction is to be used in a residential structure, the authority having jurisdiction shall notify the chief of the fire district, fire department or fire company having jurisdiction over the structure of that fact.

(b) The chief of the fire district, fire department, or fire company having jurisdiction over the residential structure to be erected, added to, or modified, or his or her designee shall use the information so provided to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

(c) The local building department or local code enforcement official for the authority having jurisdiction shall consult with the county fire coordinator, local 911 and emergency dispatchers, and the local fire protection provider or entity deemed pertinent to determine the manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

### **Section 1265.7. Enforcement**

Subdivision 4 of section 382-b of the Executive Law directs local governments to provide for enforcement of section 382-b of the Executive Law. Enforcement of section 382-b of the Executive Law shall include, but shall not be limited to, enforcement of the provisions of this Part.

### **Section 1265.8. General Municipal Law section 205-b**

Nothing contained in this Part shall in any way affect or diminish section 205-b of the General Municipal Law.

<b>Education Law</b>
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<b>Chapter 16. Of the Consolidated Laws</b>
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<b>Title VIII. The Professions</b>
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<b>Article 145. Engineering, Land Surveying and Geology</b>
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### **§ 7209. Special provisions**

1. Every professional engineer, land surveyor and professional geologist shall have a seal, approved by the board, which shall contain the name of the professional engineer and the words



“Licensed Professional Engineer”, the name of the land surveyor and the words “Licensed Land Surveyor” or the name of the professional geologist and the words “Licensed Professional Geologist”, and such other words or figures as the board may deem necessary. All plans, specifications, plats and reports relating to the construction or alteration of buildings or structures, or geologic drawings and reports prepared by such professional engineer, all plans, specifications, plats and reports prepared by such land surveyor and all geologic drawings and reports prepared by such professional geologist or by a full-time or part-time subordinate under his or her supervision, shall be stamped with such seal and shall also be signed, on the original with the personal signature of such professional engineer, land surveyor or professional geologist when filed with public officials. No official of this state, or of any city, county, town or village therein, charged with the enforcement of laws, ordinances or regulations shall accept or approve any plans, specifications, or geologic drawings or reports that are not stamped:

a. With the seal of an architect or professional engineer or land surveyor or professional geologist licensed in this state and bearing the authorized facsimile of the signature of such architect or professional engineer or land surveyor or professional geologist, or

b. With the official seal and authorized facsimile of the signature of a professional engineer or land surveyor or professional geologist not a resident of this state and having no established business in this state, but who is legally qualified to practice as such in his or her own state or country, provided that such person may lawfully practice as such in this state, and provided further that the plans, specifications, or geologic drawings or reports are accompanied by and have attached thereto written authorization issued by the department certifying to such right to practice at such time.

7. Nothing in this article shall be construed to apply:

a. To the preparation or execution of designs, drawings, plans or specifications for the construction or installation of machinery, or apparatus constructed or installed by the corporation preparing such designs, drawings, plans or specifications if the supervision of the preparation of any such designs, drawings, plans or specifications, construction or installation is done under the general direction of a professional engineer or land surveyor licensed under this article; or

b. To alterations to any building or structure costing ten thousand dollars or less which do not involve changes affecting the structural safety or public safety thereof nor to farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes; nor to residence buildings of gross floor area of fifteen hundred square feet or less, not including garages, carports, porches, cellars, or uninhabitable basements or attics.

<b>Education Law</b>
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<b>Chapter 16. Of the Consolidated Laws</b>
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<b>Title VIII. The Professions</b>
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<b>Article 147. Architecture</b>
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**§ 7307. Special provisions**

1. Every architect shall have a seal, approved by the board, which shall contain the name of the architect and either the words "Registered Architect" and such other words or figures as the board may deem necessary. All working drawings and specifications, prepared by such architect or by a full-time or part-time subordinate employed under his supervision, shall be stamped with such seal and shall also be signed on the original with the personal signature of such architect when filed with public officials. Except for plans and specifications excluded from the provisions of this article by [section seventy-three hundred six](#) of this article, no official of this state, or of any county, city, town or village therein, charged with the enforcement of laws, ordinances or regulations relating to the construction or alteration of buildings or structures, shall accept or approve any plans or specifications that are not stamped:

- a. With the seal of an architect or professional engineer registered in this state and bearing the authorized facsimile of the signature of such architect or professional engineer; or
- b. With the official seal and authorized facsimile of the signature of an architect or professional engineer not a resident of this state and having no established business in this state, but who is legally qualified to practice as such in his own state or country, provided that such person holds a limited permit issued by the department, and provided further that the plans or specifications are accompanied by and have attached thereto written authorization issued by the department for the specific project.

5. This article shall not apply to:

1. Farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes; nor to residence buildings of gross area of fifteen hundred square feet or less, not including garages, carports, porches, cellars, or uninhabitable basements or attics; or
2. Alterations, costing ten thousand dollars or less, to any building or structure within the city of New York and twenty thousand dollars or less, to any building or structure outside the city of New York which do not involve changes affecting the structural safety or public safety thereof.

## **Educational Services Unit**

Please visit our website at [https://www.dos.ny.gov/dcea/edu\\_serv.html](https://www.dos.ny.gov/dcea/edu_serv.html) for additional information and updates to our services.

## **Overview of the Educational Services Unit**

The Educational Services Unit (ESU) administers the code enforcement [Basic Training Program](#) (BTP) promulgated by Executive Law §376-a and established by [19 NYCRR Part 1208](#). This program provides training to individuals who wish to become a certified Code Enforcement Official (CEO) or a certified Building Safety Inspector (BSI). Because of limited room capacity, priority seating in the BTP is reserved for local government (cities, towns, villages, and counties) CEOs and BSIs, and state agency designated Code Compliance Managers and Code Coordinators. Where space allows, design professionals, contractors, and the general public may be admitted into the program.

If you have applied to attend the BTP and the course is less than two weeks away, and if you have not yet received an email confirmation that you have been admitted into the program, then please notify the ESU via email, phone, or fax as listed below. Do **not** send an email if the course date is more than two weeks away.

Email: [dosCodesTraining@dos.ny.gov](mailto:dosCodesTraining@dos.ny.gov)

Phone: (518) 474-4073

Fax: (518) 474-5788

In general terms, a certified CEO may perform any code enforcement activity. Some of these duties include, but are not limited to, conducting fire safety and/or property maintenance inspections of existing buildings, review and/or approval of plans incidental to the issuance of a permit for the construction or alteration of buildings, and construction inspections performed during and/or upon completion of the construction or alteration of buildings ([19 NYCRR 1208-1.2\(e\) and \(h\)\(2\)](#)). The duties that a certified BSI may perform are limited to fire safety and property maintenance inspections of existing buildings ([19 NYCRR 1208- 1.2\(c\) and \(h\)\(1\)](#)).

The ESU is also responsible for creating and administering In-Service training (continuing education) courses for BSIs and CEOs, and for reviewing and approving continuing education courses created and provided by [Adjunct instructors \(19 NYCRR 1208- 1.2\(a\)\)](#).

#### Inquiries

For general inquiries regarding the Basic Training Program, In-Service training requirements, Professional Development Electives, or CEO or BSI certification status, please email, call, or fax using the contact information provided below:

Email: [doscodetraining@dos.ny.gov](mailto:doscodetraining@dos.ny.gov)

Phone: (518) 474-4073

Fax: (518) 474-5788

## Technical Support Unit

### Technical Support on the Uniform Code and Energy Code

The DBSC provides technical support on the Uniform and Energy Codes, including clarifications, conditions or practices affecting the Codes, via technical bulletins and code interpretations.

DBSC staff members providing technical assistance have backgrounds in code enforcement, architecture, and civil, fire protection, mechanical, and structural engineering.

### How to Get Help

See Frequently Asked Questions before contacting.

**Code Enforcement Officials:** Email [codes@dos.ny.gov](mailto:codes@dos.ny.gov) or leave a message with the appropriate Regional office with contact information and a brief description of the issue.

**Design Professionals, Contractors & Public:** Contact the local code enforcement official where the project is located.

### More Information

The Technical Support Unit does NOT approve Factory-built homes and buildings (Modular buildings), certify manufacturers, retailers, installers, and mechanics of manufactured homes (HUD Code Homes), or variances.

For more information regarding the below units, contact the individuals listed at

518-474-4073 or via mail:  
New York State Department of State  
Division of Building Standards and Codes  
One Commerce Plaza  
99 Washington Avenue, Suite 1160  
Albany, NY 12231

## Student Activity

*Answers to the following 11 questions can be found in Article 18 of the Executive Law, commonly known as the “The Building Code Act.” Be prepared to discuss your answers.*

1. In Section 374, what is the “Council”?
  - How many members are on the Council?
  - With the exception of the Secretary of State and the State Fire Administrator who picks the council?
2. What power is given to the Secretary in Section 376 to resolve a dispute?
3. In Section 377, who is responsible for the content of the New York State Uniform Fire Prevention and Building Code?
4. Section 378 lists issues that **MUST** be in the Code  
How many duplicate section numbers are there?
5. In Section 379, may a local government be **ALLOWED** to adopt a more restrictive local code?
  - If so, by who and what needs to be done?
  - Can it be less restrictive?
6. What Administration and Enforcement issues were assigned to the Secretary of State in Section 381?
7. What process is found in Section 381 relieve an unnecessary hardship?
8. In Section 381, are there options for a local government if they do not want to establish their own Code Enforcement program?
9. In Section 381, who has the authority to check a local government’s code enforcement program?
  - What alternatives are available if they are not doing the job properly?
10. What kind of enforcement powers are found in Section 382 for code violations?
11. In Section 383, is there any place where the Uniform Code does **NOT** apply?

## Student Activity: Legal Aspects of Inspections

1. Did the failure of Mr. Jones to respond to the postcard amount to consent to the inspection?

2. Could the lady guest properly consent to the inspection?
3. Who may properly and effectively consent to an inspection without a warrant?
4. Assuming that Ms. Smith had the power to consent to the inspection, did her action in fact amount to consent within the meaning of the law?
5. To what extent may an inspector go in carrying out his duties?
6. Should Mr. Jones be prosecuted for the crime of obstructing governmental administration?
7. May the photos be used in convicting Mr. Jones for the use of an unapproved fireplace?
8. What should Inspector Waters have done to properly exercise his duties?

## MODEL LOCAL LAW ESTABLISHING A LOCAL GOVERNMENT CODE ENFORCEMENT PROGRAM

**NOTE 1:** This model local law is intended to be used only as a guide. Each local government should work with its attorney in preparation of a local law that satisfies the minimum standards.

**NOTE 2:** Under no circumstances should this model local law be adopted “as is.” At a minimum, provisions in ***bold italics*** need to be filled in with the appropriate information (or, in some cases, deleted). In addition:

- Section 4 (“Building Permits”) imposes the requirement that a building permit be obtained before any work is performed. If a local government wishes to exempt certain categories of work from the building permit requirement, the local government should use the Alternative 1 versions of subdivisions (a), (b), and (c) of Section 4, and should include in subdivision (b) only those categories of work that the local government wishes to exempt from the building permit requirement. (Note that the Alternative 1 version of Section 4, subdivision (b), lists all of the categories of work that a local government is allowed to exempt from the building permit requirement – the local government may not exempt any category of work not listed there.) If a local government does not wish to exempt any category of work from the building permit requirement, the local government should use the Alternative 2 versions of subdivisions (a), (b), and (c) of Section 4.
- Section 9 (“Unsafe Buildings, Structures, and Equipment and Conditions of Imminent Danger”) requires the local government to make reference to another local law that establishes the local government’s procedures for identifying and addressing unsafe buildings, structures, and equipment and conditions of imminent danger (Alternative 1) or to draft and insert such provisions in Section 9 (Alternative 2).
- Section 10 (“Operating Permits”) imposes the requirement that an operating permit be obtained for operating certain buildings and/or conducting certain activities. If a local government wishes to allow exemptions from the operating permit requirement, the local government should use the Alternative 1 version of subdivision (c) of Section 10. If a local government does not wish to allow exemptions from the operating permit requirement, the local government should use the Alternative 2 version of subdivision (c) of Section 10.

**NOTE 3:** The local government’s provisions for identifying and addressing unsafe buildings, structures, and equipment and conditions of imminent danger, whether in another local law (Section 9, Alternative 1) or in this local law (Section 9, Alternative 2), must recognize and protect the right of all persons and entities to due process of law. In particular, but not by way of limitation, provisions authorizing the local government to post, placard, or condemn any building or structure and/or to remove any owner or occupant or cause any owner or occupant to be removed from any building or structure should (1) require the local government to first give such notice and opportunity to be heard (and, if applicable, right to appeal) as may be required under the applicable circumstances by applicable Federal and/or New York State Constitutional Provisions; (2) provide that in cases of imminent danger, posting, placarding, and condemning a building or structure and/or removing owners and occupants or causing owners and occupants to be removed without first providing an opportunity to be heard shall be permitted but only to the extent consistent with applicable Federal and New York State Constitutional provisions; and (3) provide that in any case of imminent danger where posting, placarding, and condemning a building or structure and/or removing owners and occupants or causing owners and occupants to be

removed does occur without first providing an opportunity to be heard, the local government shall afford the affected persons and entities the opportunity for a post-action hearing to the extent required by applicable Federal and/or New York State Constitutional provisions. The local government should consult with its own attorney for further information and for legal advice regarding the applicable Federal and New York State Constitutional provisions and the drafting of provisions that recognize and protect due process rights.

**NOTE 4:** With respect to inspections referred to in this model local law, the local government should bear in mind that in most cases, in the absence of consent from the building owner or other authorized person, the local government must obtain a warrant or court order before performing the inspection. The local government should consult with its own attorney for further information and for legal advice regarding the need for a warrant or court order in any given situation.

**NOTE 5:** Section 14 (“Climatic and Geographic Design Criteria”) requires the code enforcement official to determine the climatic and geographic design criteria for buildings and structures constructed within the jurisdiction as required by the Uniform Code. Please see Technical Bulletin TB-1009-RCNYS entitled “Requirements for Completing Table R301.2(1) in the 2020 Residential Code of New York State” and note that some values could be a range depending upon the boundaries of the jurisdiction.

Local Law # \_\_\_\_\_ of 20 .

Be it enacted by the [*specify governing body*] of the [*City / Town / Village*] of \_\_\_\_\_, in the County of \_\_\_\_\_, as follows:

## SECTION 1. PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this [*City / Town / Village*]. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law.

Except as otherwise provided in the Uniform Code, the Energy Code other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

## SECTION 2. DEFINITIONS

In this local law, the following terms shall have the meanings shown in this section:

**“Assembly Area”** shall mean an area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

**“Building Permit”** shall mean a building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term “Building Permit” shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this local law.



**“Certificate of Compliance”** shall mean a document issued by the [City / Town / Village] stating that work was done in compliance with approved construction documents and the Codes.

**“Certificate of Occupancy”** shall mean a document issued by the [City / Town / Village] certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the [City / Town / Village], and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

***“City” shall mean the City of \_\_\_\_\_.***

**“Code Enforcement Officer”** shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

**“Code Enforcement Personnel”** shall include the Code Enforcement Officer and all Inspectors.

**“Codes”** shall mean the Uniform Code and Energy Code.

**“Energy Code”** shall mean the New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

**“FCNYS”** shall mean the **2020 Fire Code of New York State** as currently incorporated by reference in 19 NYCRR Part 1225.

**“Fire Safety and Property Maintenance Inspection”** shall mean an inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

**“Hazardous Production Materials”** shall mean a solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

**“Inspector”** shall mean an inspector appointed pursuant to subdivision (d) of section 3 of this local law.

**“Mobile Food Preparation Vehicles”** shall mean vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

**“Operating Permit”** shall mean a permit issued pursuant to section 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this local law.

**“Order to Remedy”** shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 17 of this local law.

**“Permit Holder”** shall mean the Person to whom a Building Permit has been issued.

**“Person”** shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

**“PMCNYS”** shall mean the **2020 Property Maintenance Code of New York State** as currently incorporated by reference in 19 NYCRR Part 1226.

**“RCNYS”** shall mean the **2020 Residential Code of New York State** as currently incorporated by reference in 19 NYCRR Part 1220.

**“Repair”** shall mean the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

**“Stop Work Order”** shall mean an order issued pursuant to section 6 of this local law.

**“Sugarhouse”** shall mean a building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

**“Temporary Certificate of Occupancy”** shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

**“Town” shall mean the Town of \_\_\_\_\_.**

**“Uniform Code”** shall mean the New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law.

**“Village” shall mean the Village of \_\_\_\_\_.**

### **SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS**

(a) The Office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and to include in terms and conditions as the Code Enforcement Officer may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits;

(3) to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and

Operating Permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of section 17 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees as set by the [**specify legislative body**] of this [**City / Town / Village**];

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this [**City's / Town's / Village's**] attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by [specify method of appointment]. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, another individual shall be appointed by [**specify method of appointment**] to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed [**specify method of appointment**] to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the [**specify legislative body**] of this [**City / Town / Village**].

#### **SECTION 4. BUILDING PERMITS.**

**[Alternative 1: Use the following versions of subdivisions (a), (b), and (c) if the Local Government wishes to exempt one or more categories of work from the Building Permit requirement]:**

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the **[City / Town / Village]**.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories: **[include the paragraph[s] below that describe the category[ies] of work to be exempted from the building permit requirement – note that no category of work other than those listed below can be exempted.]**

**(1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;**

**(2) construction of temporary sets and scenery associated with motion picture, television, and theater uses;**

**(3) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);**

**(4) installation of partitions or movable cases less than 5'-9" in height;**

**(5) painting, wallpapering, tiling, carpeting, or other similar finish work;**

**(6) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;**

**(7) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or**

**(8) repairs, provided that the work does not have an impact on fire and life safety, such as (i) any part of the structural system; (ii) the required means of egress; or (iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.**

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

**[Alternative 2: Use the following versions of subdivisions (a), (b), and (c) if the Local Government does not wish to exempt any category of work from the Building Permit**

**requirement]:**

(a) Building Permits Required. A Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the [**City / Town / Village**].

(b) This subdivision is intentionally omitted.

(c) This subdivision is intentionally omitted.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1) a description of the location, nature, extent, and scope of the proposed work;

(2) the tax map number and the street address of any affected building or structure;

(3) the occupancy classification of any affected building or structure;

(4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5) at least 2 sets of construction documents (drawings and/or specifications) which (i) describe the location, nature, extent, and scope of the proposed work; (ii) show that the proposed work will conform to the applicable provisions of the Codes; (iii) show the location, construction, size, and character of all portions of the means of egress; (iv) show a representation of the building thermal envelope; (v) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information; (vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building; (vii) include a written statement indicating compliance with the Energy Code; (viii) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and (ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design

professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within [***specify interval – DOS suggests interval not to exceed 6 months***] months following the date of issuance. Building Permits shall expire [***specify interval – DOS suggests interval not to exceed 12 months***] months after the date of issuance. A Building Permit which has become invalid, or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate, or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

## **SECTION 5. CONSTRUCTION INSPECTIONS.**

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

(1) work site prior to the issuance of a Building Permit;

(2) footing and foundation;

(3) preparation for concrete slab;

(4) framing;

(5) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;

(6) fire resistant construction;

(7) fire resistant penetrations;

(8) solid fuel burning heating appliances, chimneys, flues, or gas vents;

(9) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;

(10) installation, connection, and assembly of factory manufactured buildings and manufactured homes; and

(11) a final inspection after all work authorized by the Building Permit has been completed.

(c) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

(d) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

(f)

## **SECTION 6. STOP WORK ORDERS.**

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by [**registered mail / certified mail**]. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by [**registered mail / certified mail**]; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder, and any other Person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order, other than work expressly authorized by the Code Enforcement Officer to correct the reason for issuing the



Stop Work Order.

(d) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 17 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

## **SECTION 7. CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE**

(a) Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

(b) Issuance of Certificates of Occupancy and Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections,

(2) flood hazard certifications,

(3) a written statement of the results of tests performed to show compliance with the Energy Code, and

(4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

(c) Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

(1) the Building Permit number, if any;

(2) the date of issuance of the Building Permit, if any;

- (3) the name (if any), address and tax map number of the property;
  - (4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;
  - (5) the use and occupancy classification of the structure;
  - (6) the type of construction of the structure;
  - (7) the occupant load of the assembly areas in the structure, if any;
  - (8) any special conditions imposed in connection with the issuance of the Building Permit; and
  - (9) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.
- (d) Temporary Certificate of Occupancy. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate of Occupancy unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely, (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A Temporary Certificate of Occupancy shall be effective for a period of time, not to exceed [***specify interval – DOS suggests interval not to exceed 6 months***] months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.
- (e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate of Occupancy was issued in error or on the basis of incorrect information, and if the relevant deficiencies are not corrected to the satisfaction of the
- (f) Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- (g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

## **SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.**

The chief of any fire department providing firefighting services for a property within this [City / Town / Village] shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.

## **SECTION 9. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER**

ALTERNATIVE 1: Unsafe buildings, structures, and equipment and conditions of imminent danger in this [**City / Town / Village**] shall be identified and addressed in accordance with the procedures established by Local Law Number [\_\_\_\_\_ of \_\_\_\_\_], as now in effect or as hereafter amended from time to time.

ALTERNATIVE 2: Unsafe buildings, structures, and equipment and conditions of imminent danger in this [**City / Town / Village**] shall be identified and addressed in accordance with the following procedures [**specify procedures**].

## **SECTION 10. OPERATING PERMITS.**

(a) Operation Permits required. Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below: manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;

(1) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:

(i) Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;

(ii) Chapter 24, "Flammable Finishes." Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;

(iii) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;

(iv) Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;

(v) Chapter 31, "Tents, Temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;

(vi) Chapter 32, "High-Piled Combustible Storage." High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;

(vii) Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;

(viii) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;

(ix) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;

(x) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparking devices as defined by Penal Law section 270;

(xi) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;

(xii) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and

(xiii) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle in accordance with the permitting requirements established by Local Law Number [ \_\_\_\_\_ ] of [ \_\_\_\_\_ ], as now in effect or as hereafter amended from time to time.

(3) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

(4) buildings containing one or more assembly areas;

(5) outdoor events where the planned attendance exceeds 1,000 persons;

(6) facilities that store, handle or use hazardous production materials;

(7) parking garages as defined in subdivision (a) of section 13 of this local law;

(8) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the [ **specify legislative body**] of this [ **City / Town / Village**]; and

(9) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the [ **specify legislative body**] of this [ **City / Town / Village**].

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests

or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

***[Alternative 1: use the following version of subdivision (c) if the Local Government wishes to allow exemptions from the Operation Permit requirements]***

(c) Exemptions. Operating permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in paragraphs (1) through (7) of subdivision (a) of this section, provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with section 11 (Fire Safety and Property Maintenance Inspections) of this local law, and condition assessments are performed in compliance with section 13 (Condition Assessments of Parking Garages) of this local law, as applicable.]

***[Alternative 2: use the following version of subdivision (c) if the Local Government does not wish to allow exemptions from the Operation Permit requirements]***

(c) This subdivision is intentionally omitted.

(d) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or Inspector authorized by the Code Enforcement Officer that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the **[City / Town / Village]** sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.

(e) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in their discretion, issue a single Operating Permit to apply to all such activities.

(f) Duration of Operating Permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:

(1) **[specify interval not to exceed 180 days]** days for tents, special event structures, and other membrane structures;

(2) **[specify interval not to exceed 60 days]** days for alternative activities at a sugarhouse;

(3) **[specify interval not to exceed three (3) years]** years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section, and

(4) [***specify interval not to exceed one (1) year***] year for all other activities, structures, and operations identified in subdivision (a) of this section.

The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(g) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(h) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

## **SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS**

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) at least once every [***specify interval not to exceed twelve (12) months***] months for buildings which contain an assembly area;

(2) at least once every [***specify interval not to exceed twelve (12) months***] months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and

(3) at least once every [***specify interval not to exceed thirty-six (36) months***] months for multiple dwellings and all nonresidential occupancies.

(b) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

(c) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector authorized to perform fire safety and property maintenance inspections at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(d) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator or other authorized entity under Executive Law section 156-e and Education Law section 807-b.

**[INCLUDE THE FOLLOWING PROVISIONS IF THE CITY / TOWN /VILLAGE WISHES TO RELY ON THE INSPECTIONS PERFORMED BY OFPC OR OTHER AUTHORIZED ENTITY, AND DOES NOT WISH TO HAVE THE CODE ENFORCEMENT OFFICER INSPECT BUILDINGS THAT ARE INSPECTED BY OFPC OR OTHER AUTHORIZED ENTITY:**

***Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:***

***(1) the Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 1203.2(e);***

***(2) the Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;***

***(3) such inspections are performed no less frequently than once a year;***

***(4) a true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer; and***

***(5) upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by section 17 (Violations) of this local law.]***

(e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

## **SECTION 12. COMPLAINTS**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law [, ordinance] or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code.

The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- (a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 17 (Violations) of this local law;
- (c) if appropriate, issuing a Stop Work Order;
- (d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

### **SECTION 13. CONDITION ASSESSMENTS OF PARKING GARAGES.**

(a) Definitions. For the purposes of this section:

- (1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;
- (2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;
- (3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:
  - (i) buildings in which the only level used for parking or storage of motor vehicles is on grade;
  - (ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
  - (iii) a townhouse unit with attached parking exclusively for such unit;
- (4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;
- (5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.
- (6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and



(7) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(b) Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the [**City / Town / Village**], in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

(c) Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

(1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.

(2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:

(i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

(ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

(iii) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.

(3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to [**specify date not more than six (6) months after the effective date of this local law**].

(d) Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed [**specify interval not to exceed three (3) years**].

(e) Additional Condition Assessments.

(1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage

(2) (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(3) If the [**City / Town / Village**] becomes aware of any new or increased deterioration which, in the judgment of the [**City / Town / Village**], indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the [**City / Town / Village**] to be appropriate.

(f) Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the [**City / Town / Village**] within [**specify time as fixed by the City / Town / Village**]. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

(1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

(2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

(3) an evaluation and description of the unsafe conditions;

(4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

(5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

(6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

(7) the responsible professional engineer's recommendation regarding preventative maintenance;

(8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer

shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.

(g) Review Condition Assessment Reports. The **[City / Town / Village]** shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the **[City / Town / Village]** shall, by Order to Remedy or such other means of enforcement as the **[City / Town / Village]** may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the **[City / Town / Village]** to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

(h) The **[City / Town / Village]** shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the **[City / Town / Village]** with a written statement attesting to the fact that he or she has been so engaged, the **[City / Town / Village]** shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The **[City / Town / Village]** shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

(i) This section shall not limit or impair the right or the obligation of the **[City / Town / Village]**:

(1) to perform such construction inspections as are required by section 5 (Construction Inspections) of this local law;

(2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 (Fire Safety and Property Maintenance Inspections) of this local law; and/or

(3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the **[City / Town / Village]** by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

## **SECTION 14. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.**

(a) The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this **[City / Town / Village]** as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

(1) design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier

underlayment is required; the air freezing index; and the mean annual temperature;

(2) heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and

(3) flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:

(i) the accompanying Flood Insurance Rate Map (FIRM);

(ii) Flood Boundary and Floodway Map (FBFM); and

(iii) related supporting data along with any revisions thereto.

(b) The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

## **SECTION 15. RECORD KEEPING.**

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

(1) all applications received, reviewed and approved or denied;

(2) all plans, specifications and construction documents approved;

(3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;

(4) all inspections and tests performed;

(5) all statements and reports issued;

(6) all complaints received;

(7) all investigations conducted;

(8) all condition assessment reports received;

(9) all fees charged and collected; and

(10) all other features and activities specified in or contemplated by sections 4 through 14, inclusive, of this local law.

(b) All such records shall be public records open for public inspection during normal business

hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

## **SECTION 16. PROGRAM REVIEW AND REPORTING**

(a) The Code Enforcement Officer shall annually submit to [***specify legislative body***] of this [***City / Town / Village***] a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 14 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this [***City / Town / Village***], on a form prescribed by the Secretary of State, a report of the activities of this [***City / Town / Village***] relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this [***City / Town / Village***] is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

## **SECTION 17: VIOLATIONS**

(a) Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by \_\_\_\_\_ [***specify date***], which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder,

architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other

Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Penalties. In addition to such other penalties as may be prescribed by State law,

(1) any Person who violates any provision of this local law or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be punishable by a fine of not more than [**specify amount**] per day of violation, or imprisonment not exceeding [**specify time period**], or both; and

(2) any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to pay a civil penalty of not more than [**specify amount**] for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of this [**City / Town / Village**].

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this [**City / Town / Village**], in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this [**City / Town / Village**], in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the [**specify executive officer or body**] of this [**City / Town / Village**].

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law.

In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

## **SECTION 18: FEES**

A fee schedule shall be established by resolution of the [*specify legislative body*] of this [*City / Town / Village*]. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

## **SECTION 19. INTERMUNICIPAL AGREEMENTS**

The [*specify legislative body*] of this [*City / Town / Village*] may, by resolution, authorize the [*specify title*] of this [*City / Town / Village*] to enter into an agreement, in the name of this [*City / Town / Village*], with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

## **SECTION 20. PARTIAL INVALIDITY**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

## **SECTION 21. EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

## **REVISIONS TO MODEL LOCAL LAW:**

**January 18, 2022:** The foregoing Model Local Law contains numerous revisions to the prior version of the model local law. The revisions are intended to reflect the new version of 19 NYCRR Part 1203, which was adopted on December 14, 2021 and which will become effective on December 30, 2022. The Department of State recommends that each local government responsible for administration and enforcement of the Uniform Code and/or Energy Code review the local law(s) or ordinance(s) that establish its existing code enforcement program and make such changes to such local law(s) or ordinance(s) as may be required to bring its code enforcement program into compliance with the new version of Part 1203. One way to do so would be to repeal the local law(s) or ordinance(s) that establish the local government's existing code enforcement program and to adopt a new local law based on foregoing Model Local Law.

**Any local government that adopted the prior version of the model local law, or a modified version of the prior model local law, and that wishes to keep such local law in effect through December 30, 2022, should be aware of the following revisions that were made to the prior model local law:**

**August 15, 2018:** Revised subdivision (a) of Section 10, added a new Section 13 entitled Condition Assessments of Parking Garages, renumbered Sections 13 through 19 accordingly, and revised new Section 14, to reflect the provisions of amended 19 NYCRR section 1203.3, relating to Condition Assessments of Parking Garages. Revised any references to the previously numbered Sections 13 through 19 to reflect the appropriate new renumbered Section. Revised subdivisions (b) and (d) of Section 3 by changing the phrase “State Fire Administrator” to “Department of State.”

**December 28, 2015:** Revised subdivision (a) of Section 15 to reflect the provisions of new 19 NYCRR section 1203.5, relating to Orders to Remedy.

**April 22, 2011:** Revised first sentence in subdivision (c) of Section 15 by changing the word “proscribed” to “prescribed.”

**February 23, 2006:** Revised two references in the last sentence in Section 15(e) from subdivision (2) of section 381 of the Executive Law to subdivision (2) of section 382 of the Executive Law.

**February 23, 2006:** Revised definition of “inspector” (Section 2) from pursuant to subdivision (d) of section 4 of this local law to pursuant to subdivision (d) of section 3 of this local law.